

RSA-3939-2016 (O&M)

**129 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-3939-2016 (O&M)
Date of decision : 20.02.2019**

Municipal Council Anandpur Sahib

... Appellant

Versus

Jarnail Singh Thakur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. J.S. Toor, Advocate for the appellants.

Mr. IPS Kohli, Advocate for the caveator/respondent No.1.

AMIT RAWAL, J. (ORAL)

The appellant-defendant has not been successful to defend the suit of the plaintiff for mandatory injunction calling upon them to execute the demarcation of the suit property and restraint from cancellation of the allotment.

The plaintiff alleged that in the auction held on 30.09.2009, he was the successful bidder of a shop measuring 152 sq. yds, comprised in new PUDA Shopping Complex, Anandpur Sahib, District Ropar. The terms and conditions envisage the deposit of 25% and remaining within a period of one year. The entire amount had been deposited, but the defendants in response to the legal notice for demarcation, without complying with the principles of natural justice, cancelled the allotment, on 28.12.2009, which was set aside by the Deputy Director on 21.06.2010, in such circumstances, the aforementioned suit was filed.

The appellants-defendants opposed the suit and claimed that the principles of natural justice, in view of the conditions of allotment, were not required to be complied with, but did not dispute the suspension of the

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order cancelling the auction.

Mr. J.S. Toor, learned counsel appearing on behalf of the appellant-defendant submitted that judgments and decrees of the Courts below decreeing the suit are totally fallacious and perverse. No doubt the certain amount was deposited, but the plaintiff did not deposit the entire amount, resulting into, cancellation of the allotment. Mutation bearing No.9137, accordingly, was sanctioned in favour of the appellant-defendant.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, as per the findings of fact and law arrived at, Ex.PW2/C to Ex.PW2/D, showed that the amount of ₹50,000/- and ₹11,00,000/- was deposited to the defendants, which was not disputed by the defendants. The objection raised in the written statement was only of the cancellation on the ground of the Rules, whereas the aforementioned order was already suspended by the Deputy Director on 21.06.2010. Once the aforementioned order had attained finality and there was no challenge in the absence of any counter-claim or independent suit, the decree passed by the trial Court is most innocuous, which has consequential effect.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Toor, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

20.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No