

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

RSA-4664-2014(O&M)

Date of decision:-30.7.2019

Estate Officer, HUDA, Kaithal and others

...Appellants

Versus

Kulwant Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Argued by: Mr.Baldev Raj Mahajan, Senior Advocate with
Mr.Deepak Balyan, Advocate and
Mr.Deepak Sabharwal, Advocate
for the appellants.

Mr.Sanjeev Gupta, Advocate
for the respondent.

H.S. MADAAN, J.

Briefly stated, facts of the case are that plaintiff Kulwant Singh had brought a suit for permanent injunction against defendants i.e. Estate Officer, Haryana Urban Development Authority (hereinafter referred to as HUDA), Kaithal, HUDA through Chief Administrator, Panchkula and Chief Administrator, HUDA, Panchkula for issuance of a direction to the defendants to re-issue the

allotment letter regarding the plot No.186, Sector-20 HUDA, Kaithal on the reserve price of Rs.825/- per square meter as per the policy dated 18.3.1992, further praying that defendants be directed to pay the amount of damages to be fixed by the Court and they be restrained permanently from charging more than Rs.825/- per square meter i.e. the reserve price of the plot as in the year 1992.

As per the version of the plaintiff, his agricultural land situated at Patti Kaisth Seth, Kaithal was acquired by HUDA, Panchkula for development of Sectors 19 and 20, HUDA, Kaithal vide notification under Sections 4 and 6 of the Land Acquisition Act dated 25.9.1989 and 24.9.1990, respectively; that after developing Sectors 19 and 20, HUDA, Kaithal invited applications for sale of the plots in the year 1992 and as per policy dated 18.3.1992, the defendants also invited applications for allotment of the plots under oustees quota in the year 1992 as well as in the year 2000 and also subsequent years; since the entire land of the plaintiff had been acquired, therefore, he was entitled for allotment of plot of 500 square yards in accordance with the policy dated 18.3.1992 on the reserve price. Accordingly, the plaintiff applied for allotment of a plot in the year 1992 itself; that the defendants had allotted a plot of 420 square meters bearing No.186 Sector 20, HUDA, Kaithal to the plaintiff @ Rs.2,880/- per square meter instead of the reserve price of 1992 i.e. Rs.825/- per square meter, which demand according to the

plaintiff was illegal, null and void and further similarly placed persons had been allotted plots on reserve price as that prevailed in the year 1992. Feeling aggrieved, the plaintiff had brought the suit.

On notice, the defendants appeared and filed a joint written statement raising preliminary objections with regard to maintainability of the suit, locus standi of the plaintiff to file the suit contending that no cause of action arose to the plaintiff to institute the suit; that the civil Court had no jurisdiction to entertain and try the suit; that the plaintiff had concealed the true and material facts from the Court. According to the defendants, plaintiff was found entitled for a plot under partially modified oustees policy of 1993 of HUDA, subject to verification of khewat and co-sharer(s); that after following the process of law and complying with all the formalities, the answering defendants issued the allotment letter dated 5.12.2007 to the plaintiff at the rate of Rs.2,888/- per square meter as per policy of HUDA; that the defendants were entitled to charge interest as well as enhancement in cost of land awarded by the competent authority under the Land Acquisition Act proportionately; that the amount so calculated was arrived at Rs.2,888/- per square meter, which rate was tentative and subject to the decision of the rates to be decided by higher authorities. On merits, the defendants denied that the entire land of the plaintiff was acquired alleging that plaintiff had not applied for a plot as per the policy of HUDA. Refuting the remaining

allegations in the plaint, the defendants prayed for dismissal of the suit.

Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing the learned counsel for the parties, the trial Court vide judgment and decree dated 6.8.2011 decreed the suit of the plaintiff and defendants were restrained from charging more than Rs.825/- per square meter i.e. the reserve price of the plot allotted to the plaintiff prevalent in the year 1992 and as a sequel to the findings, the defendants were directed to re-issue the allotment letter regarding plot No.186, Sector-20, HUDA, Kaithal allotting the plot to plaintiff on reserve price of Rs.825/- per square meter.

Feeling aggrieved by the said judgment and decree, the defendants had filed an appeal before District Judge, Kaithal, who vide judgment and decree dated 23.1.2014 dismissed the appeal and upheld the impugned judgment and decree passed by the trial Court.

Still feeling dissatisfied with the judgments and decrees passed by the Courts below, the defendants have filed the present regular second appeal before this Court, notice of which was issued and Respondent/plaintiff has appeared through counsel.

I have heard learned counsel for the parties besides going through the records.

The concurrent findings on the issues so recorded do not

suffer from any irregularity or illegality. The findings are affirmed.

No fault is found with the judgments and decrees passed by the Courts below. Those are upheld.

No substantial question of law arises in this appeal.

It being so and in view of the concurrent findings returned by the Courts below with which I do not see any reason to disagree, I conclude that the appeal is without merit and is dismissed accordingly.

Since the main appeal stands dismissed, the civil miscellaneous application, if any, shall stand disposed of accordingly.

30.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable : Yes/No