

RSA-2759-2017 (O&M)

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

RSA-2759-2017 (O&M)

Date of decision : 27.02.2019

Daljit Singh Sandhu

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

AMIT RAWAL, J. (ORAL)

The present regular second appeal is arising out of the dismissal of the suit for possession, at the instance of the plaintiff, by the trial Court as well as by the lower Appellate Court.

The plaintiff alleged to have claimed the possession and declaration by challenging the various sale deeds, in respect of the suit property, purchased in open auction on 05.04.1982. It was alleged that he was the highest bidder. Though the sale was subject to the approval of the Settlement Commissioner or an Officer appointed for this purpose, an agreement to sell was entered into and in lieu thereof, the plaintiff deposited the entire sale consideration of ₹6430/-. The plaintiff had been approaching the concerned officer for possession, but it came to the knowledge that the auction was not fully confirmed, Re-auction in favour of defendant Nos.4 to 6 and 12, in such circumstances, sought to be declared as illegal, null and

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void. The Department did not inform about the non-confirmation of the sale/auction. On 07.04.2008, the plaintiff obtained the copy of jamabandi and acquired the knowledge of the sale deeds, in such circumstances, were challenged.

Defendant No.14 appeared and filed the written statement by raising objection qua maintainability and hopelessly barred by law of limitation. The sale was subject to the approval of the Settlement Commissioner, who found some irregularities and illegalities. Jurisdiction of the Civil Court was stated to be barred.

The plaintiff in support of the aforementioned pleadings examined examined himself as PW1 and Dalip Singh as PW2 and brought on record the various documents Ex.P1 to Ex.P5/A, whereas the defendants examined Gurdeep Singh as DW1 and tendered in evidence numerous documents i.e. Ex.D1 to Ex.D17.

Mr. J.S. Toor, learned counsel appearing on behalf of the appellant-plaintiff submitted that once the entire sale consideration was paid and the sale was according to the sale agreement, acquired the confirmation, if at all, there were some irregularities and illegalities, the appellant-plaintiff should have been afforded an opportunity of hearing. In such circumstances, the law of limitation would not come in the way. The plaintiff acquired the knowledge only in the year 2008. Both the Courts below have erred that the Civil Court had no jurisdiction, for, the provisions of the Punjab Package Deal Properties Disposal Act, 1976, were in vogue, but the auction was conducted by the Rehabilitation Department.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, no explanation has come forth in not availing the

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remedy of possession. If at all, the appellant was so sure about the confirmation of sale, no steps were taken to take the possession, thus, deems to have acquiesced. The law on acquiesce is also recognized. Reckoning cause of action in 2008 by obtaining the jamabandi, cannot bring the case within the parameters of Article 59 of the Limitation Act as the provisions of Articles 56 and 58 prescribes the period of three years from the date of occurrence and not from the date of knowledge. Auction proceedings without participation by the plaintiff could not be declared null and void, much less, subsequent sale deeds, in favour of various other persons as the property exchanged many hands.

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.

27.02.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**