

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

**RSA No.2926 of 2018 (O&M)
Date of Decision : 06.11.2019**

Harbhajan Singh

.....Appellant

Versus

The Improvement Trust Ludhiana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajat Garg, Advocate for
Mr.Aditya Jain, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial Court, vide judgment and decree dated 31.08.2012 and as even the appeal preferred against the said decree failed and was dismissed on 19.02.2016, he is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for a decree of mandatory injunction requiring the defendants to allot a plot to the plaintiff being a Local Displaced Person under the Scheme known as Shaheed Bhagat Singh Nagar, vide which a land measuring 475 acres was acquired.

In brief, the case set out by him was that he happened to be the Non-Resident Indian. He along with Satbir Singh, Harbans Kaur and Harnek Singh were co-shares in the suit property that was acquired by the

defendants. Plaintiff had filed a writ petition before this Court for allotment of a plot of an appropriate size wherein the defendants were directed to consider his representation and pass appropriate orders. However, the defendants rejected the claim of the plaintiff, for, he had failed to deposit the earnest money along with his application for allotment of plot as a Locally Displaced Person (LDP) within the specified time. Despite this plaintiff requested the defendants to accept the earnest money but plaintiff, his brother and mother were not allotted any plot under the Scheme nor any compensation was given to him, thus the suit.

In the written statement filed by the defendants it was pleaded *inter alia* that suit itself was not maintainable, for, plaintiff was not Locally Displaced Person. Further, only one co-sharer could get one plot out of the joint khata. The suit was even time barred. Even otherwise, the plaintiff had failed to deposit the necessary amount for getting possession within the statutory period, thus, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record both the Courts concurrently concluded that under the rules the land owner whose land holding was acquired was required to be the owner thereof or ought to have purchased the same at least two years prior to the notification under Section 36 of the Punjab Town Improvement Act, 1922 to be entitled for allotment under the LDP Scheme. However, Harnek Singh, father of the plaintiff had purchased the acquired land in the year 1975, whereas the notification was issued in the year 1976. Therefore, the cause of action, if any, to seek allotment of plot accrued to the plaintiff

immediately post acquisition of their land by the Trust. However, the plaintiff filed the present suit on 27.11.2006, that is after a period of 28 years. Thus, the suit was time barred. That being so, the only and the inevitable conclusion that could be reached: plaintiff failed to substantiate his claim and even otherwise the suit was barred by time.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions recorded by both the Courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts below. The appeal being devoid of merit is accordingly dismissed.

06.11.2019

*Manoj Bhutani***(ARUN PALLI)
JUDGE**Whether speaking/reasoned
Whether reportableYes/No
Yes/No