

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. RSA-73-2014 (O&M)

Union of India, Ministry of Civil Aviation, New Delhi

..... Appellant

Versus

Gurmail Singh and others

..... Respondents

2. RSA-122-2014 (O&M)

Secretary, Ministry of Civil Aviation, New Delhi and another

..... Appellants

Versus

Gurmail Singh and another

..... Respondents

Date of decision: 20.08.2019

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Jagdish Manchanda, Advocate for the appellants.

Mr. GS Nagra, Advocate for respondents No. 1 and 2.

RAMENDRA JAIN, J. (ORAL)

By this common judgment, above titled two appeals filed by Union of India-plaintiff in Civil Suit No. 183 dated 01.11.2004, titled as 'Union of India Vs. State of Punjab and others' and defendant in Civil Suit No. 707 dated 18.11.2002, 'Gurmail Singh and another Vs. Secretary Ministry of Civil Aviation and another', are being disposed of as similar facts are involved therein.

Briefly, respondents-Gurmail Singh and Sahib Singh, filed a suit for declaration and permanent injunction against appellant Union of India, Ministry of Civil Aviation and Airport Authority of India, to

declare mutation No. 918 in favour of the appellants as illegal and restraining from dispossessing them illegally and forcibly from the suit land measuring 23 kanals 8 marlas, comprising of khasra Nos. 19//4, 2, 14, 17, 20//10, situated at village Rudala, Tehsil Ajnala, District Amritsar.

During pendency of that suit, the appellants-Union of India, Ministry of Aviation and Airport Authority of India, also filed a suit for declaration to the effect that conveyance deed dated 09.07.1998 registered on 22.07.1998, executed by respondents No. 3 to 5 in favour of respondents No. 1 and 2, was illegal, null and void, having no binding effect upon it.

After holding trial, both the aforesaid suits were decreed, vide judgments and decrees dated 16.04.2010 and 17.01.2011, respectively.

Being aggrieved, appellant-Union of India, Ministry of Civil Aviation and Airport Authority of India filed appeal against decretal of suit of respondents No. 1 and 2 vide judgment and decree dated 16.04.210. Simultaneously, respondents No. 1 and 2 also filed appeal against decretal of suit of the appellants vide judgment and decree dated 17.01.2011.

The lower Appellate Court, vide two separate judgments of even date, partly accepted the appeal filed by the appellants, whereas appeal filed by respondents No. 1 and 2 was dismissed, but the fact remains that respondents No. 1 and 2 were treated as owner in possession of the suit land.

Still dis-satisfied, appellants-Union of India, Ministry of Civil Aviation and Airport Authority of India, have filed above titled two regular second appeals.

Learned counsel for the appellants *inter alia* contends that in the revenue record, the appellant-Union of India, was shown as owner in possession of the suit land w.e.f. 1999-2000 to 2008-2009. As per jamabandis Ex. PB for the year 2003-2004 and Ex. PC for the year 2008-2009 (in Civil Suit No. 183 dated 01.11.2004 filed by appellants-RSA-73-2014), Radar of Ministry of Civil Aviation is installed in the suit land. The State of Punjab, respondents No. 3 to 7 (in RSA-73-2014), had no authority to execute conveyance deed dated 09.07.1998 in favour of respondents No. 1 and 2, qua suit land measuring 23 kanals 8 marlas. Respondents No. 1 and 2 have specifically admitted that suit land of which conveyance deed was executed by the State of Punjab in their favour, was owned by the Central Government. Both the Courts below have failed to appreciate that respondents No. 1-Gurmail Singh, admitted in his cross-examination that suit land was owned by Central Government. Thus, suit of respondents No. 1 and 2 ought to have been dismissed, because State of Punjab had no legal right, title or authority to execute any conveyance deed in favour of respondents No. 1 and 2.

On the other hand, learned counsel for respondents No. 1 and 2 vehemently refuting the submissions of learned counsel for the appellant contends that the suit land initially, was an evacuee property, which after coming into force of the Punjab Package Deal Properties (Disposal) Act, 1976 (for short-'the Act'), vested in the State of Punjab.

Thus, the conveyance deed dated 09.07.1998 (Mark P-2) has legally been executed in favour of respondents No. 1 and 2. Section 16 of the Act, bars the jurisdiction of Civil Court. Therefore, both the appeals filed by the appellants were liable to be dismissed. The suit of the appellants filed in Court at Amritsar was not maintainable, inasmuch as, the suit land is situated at Ajnala, where separate Court was functioning much prior to institution of suit by the appellant by virtue of Section 16 CPC.

Having given thoughtful consideration to the rival submissions, this Court finds both the appeals merits acceptance for the reasons to follow:

The appellants-Union of India, Ministry of Civil Aviation and Airport Authority of India, proved its title over the suit land w.e.f. 1999-2000 till 2008-2009, by producing revenue records Ex. PB and Ex. PC against respondents No. 1 and 2. Contrary to it, State of Punjab, did not produce any evidence to show its title over the suit land. Therefore, any conveyance deed dated 09.07.1998 executed by it, in favour of respondents No. 1 and 2 had to be declared illegal, null and void having no binding effect upon the rights of the appellants. Even respondents No. 1 and 2 did not lead any evidence as to in what capacity, State of Punjab became owner of the suit land. Thus, there was nothing on record in both the suits before both the Courts below as to how and in what capacity State of Punjab could validly and legally execute aforesaid conveyance deed dated 09.07.1998, in favour of respondents No. 1 and 2.

Since, the State of Punjab could not prove its title over the suit land, therefore, respondents No. 1 and 2 could not have derived a

better title than the State of Punjab. No doubt, mutation does not confer any title, but, since, respondents No. 1 and 2 could not rebut consistent revenue entries in favour of the appellants, therefore, both the Courts below were required to believe the same as correct, inasmuch as, presumption of truth is attached to the un-rebutted jamabandis Ex. PB and Ex. PC, which, as discussed above, were in favour of the appellants.

Execution of conveyance deed in favour of respondents No. 1 and 2 by the State of Punjab, without any authority or legal right seems to be a matter of political influence or political compulsion, ignoring the fact that Radar of the appellants was installed and functioning in the suit land. Its removal or interference by any private person may endanger the security of airport and the State, inasmuch as, the enemy nation Pakistan is in close proximity of the suit land.

Suit was properly filed at Ajnala Court, inasmuch as, suit property is situated at village Rulada, which falls in Tehsil Ajnala.

In view of discussion made above, both the appeals are accepted. Consequently, judgments and decrees of both the Courts below dated 17.01.2011 (trial Court) and 13.09.2013 (Ist Appellate Court) in RSA-73-2014 and 16.04.2010 (trial Court) and 13.09.2013 (Ist Appellate Court) in RSA-122-2014, are set aside.

August 20, 2019
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(RAMENDRA JAIN)
JUDGE

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