

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

RSA No.4527 of 2018 (O&M)

Date of Decision : 14.11.2019

Ganga Dutt

.....Appellant

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Virendra Rana, 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 18.09.2014 and as even the appeal preferred against the said decree failed and was dismissed on 17.01.2017, 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 injunction restraining the defendants from causing interference in his house situated in five and half marlas comprised in khasra No. 109//16 and 110//20, situated in Nehru Harijan Basti, near City Railway Station, Bhiwani.

In brief, the case set out by him was that he was the owner in possession of the suit property pursuant to a sale deed dated 16.05.2000 and mutation No.5194 dated 03.08.1994. He had raised three rooms, one shed and a boundary wall. An electric meter was installed in the said house in the name of his son Raj Kumar which was dis-connected owing to non-

payment of electricity bills. Even though the defendants had no right, title or interest in the suit property and were strangers thereto but yet as they threatened the plaintiff to demolish the suit property, thus the suit.

In the written statement filed by the defendants, it was pleaded, *inter alia*, that in fact the suit property was acquired by the Haryana Urban Development Authority (HUDA), pursuant to an award No.17 dated 31.03.1988, and the compensation had been disbursed to the original owners. Further, the suit property was part of Sector 23 and all the development work had since been carried out. And, even if, the plaintiff had raised any construction that was wholly illegal and unauthorized, for, the suit property along with other acquired land was converted into residential Sector 23. 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 award Ex.D1 along with the supplementary sheets appended therewith revealed that suit property comprised in khasra No.109//16 and khasra No.110//20 was owned by Mahender Kumar son of Banwari Lal, the fact that was corroborated even by Jamabandi for the year 1987-88 (Ex.D2). List of owners also showed that the suit property was acquired by the State Government and compensation in lieu thereof had been disbursed to the claimants-landowners namely Mahender Kumar. Significantly the award Ex.D1 was rendered on 31.03.1988, whereas the alleged sale deed from which plaintiff derived title was executed on 16.05.2000, and that too on behalf of Raj Kumar Sharma son of Govind Ram. Once, the suit property originally belonged to Mahender Kumar son of Banwari Lal in terms of the jamabandi

for the year 1987-1988 and was acquired by the State Government then how from Raj Kumar Sharma, the vendor, the plaintiff, acquired ownership rights therein remained a mystery. Even otherwise, in terms of Section 44 of the Punjab Land Revenue Act, the entries incorporated in the Jamabandi for the year 1987-88 carried a presumption of truth. Thus, the suit property belonged to Mahender Kumar son of Banwari Lal and he was the owner thereof at the time of acquisition. As regards possession, plaintiff placed reliance upon Ex.P1 and Ex.P2 that are sale deed and mutation. No other evidence was led in this regard. In the given situation, even if, it was presumed that plaintiff was in occupation of the suit property but once the suit property was acquired by the State Government, possession of the plaintiff was merely of a trespasser. For, post acquisition the suit property had vested in the State Government for all intents and purposes. That being so, the only and the inevitable conclusion that could be reached: the suit was liable to be dismissed.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at 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.

14.11.2019

*Manoj Bhutani***(ARUN PALLI)****JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No