

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

RSA No.6494 of 2017 (O&M)

Date of decision:22.05.2019

Surjit Singh

... Appellant(s)

Vs.

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Vineet Chaudhary, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been successful in claiming the mandatory injunction against the State for sanctioning of the mutation being an occupant tenant with permanent injunction not to alienate the suit land.

It was alleged that predecessor-in-interest, father of the plaintiff was in possession of the suit land as gair marusi tenant. The ownership rights of the landlord were succeeded by the State Govt. For the purpose of utilization of the land, the Govt. had invited the bids for selling the land in an open auction and appellant-plaintiff participated but the aforementioned auction was not finalized and writ petition was filed which was dismissed.

The defendants opposed the suit and stated that injunction as sought cannot be granted as the ownership rights of the plaintiff were acquired and therefore, there was no statutory rights.

Mr. Vineet Chaudhary, learned counsel appearing on behalf of

the appellant-plaintiff submitted that since LPA is pending, the Courts below ought to have granted the relief qua forcible interference and possession is not in dispute. The mutation was liable to be entered.

I am afraid the aforementioned relief cannot be granted, for, remedy of the appellant-plaintiff lied elsewhere. Two identical relief i.e. injunction qua alienation during pendency cannot be granted particularly when there is no relief qua forcible interference. The suit was not properly filed as it was not based upon the foundation which would sustain the wrath of legal impediments.

The appeal is also accompanied by an application seeking condonation of delay of 648 days in filing the appeal. The explanation given in the application is bereft of the reasoning.

The arguments of Mr. Chaudhary, have not been able to bring the case within the realm of illegality and perversity to form a different opinion than the one arrived at by the Courts below. No substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed on limitation as well as on merits.

(AMIT RAWAL)
JUDGE

May 22, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No