

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

**RSA-9755-2018 (O&M)
DATE OF DECISION: 08.07.2019**

THE CHAIRMAN, AMRITSAR IMPROVEMENT TRUST

...APPELLANTS..

VERSUS

SURJIT SINGH

...RESPONDENT..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ramandeep Singh Pandher, Advocate,
for the appellant.

RAMENDRA JAIN, J. (ORAL)

CM-18932 & 18933-C-2018

Through these two applications, prayer has been made for condonation of delay of 62 days in refiling and 71 days in filing the appeal.

The delay in filing the appeal is that the trial court record was not available with it on account, of frequent transfers of its executive officers. On this account record was freshly procured. Therefore, the delay is not intentional and deliberate.

For late refiling, it has been pleaded that the same occurred on account of misplacement of brief by its counsel.

Heard.

The plea of non-availability of trial court record is completely false and frivolous on the face of it, inasmuch as, the appellant earlier had filed first appeal, grounds of which could not have been prepared without availability of trial court record.

The appellant has also not annexed any document or list to show frequent transfers of its executive officer. Therefore, in the absence of any such documentary proof, the above plea taken by the appellant is again termed as completely false and frivolous, inasmuch as, record of any legal proceedings always remains in office and not in the personal custody of official.

The fact cannot be lost sight of that the plea of misplacement of brief by counsel is taken in routine, since last more than 4/5 decades to seek condonation of delay. It has not been explained as to in what circumstances, where the brief had misplaced and further that how it could be traced.

It is well-settled proposition of law that each day's delay has to be explained in a mathematical manner, which the appellant has failed. Therefore, above plea taken by the appellant in both the applications are frivolous. Much water has already been flown. Now, the time has come to curb down such type of malpractice.

Accordingly, both the applications are dismissed.

The matter is dealt with on merit also.

Briefly, the land of the respondent situated within the limits of Municipal Corporation, Amritsar was acquired vide notification dated 17.01.1990. An award was announced on 16.01.1998. According to the policy of the appellant, the land owners, whose land was compulsorily acquired, were to be allotted plot under the scheme called as "Local Displaced Persons" in "oustees quota". As per agreement, respondent deposited ₹500/- as earnest money under the said scheme, vide receipt dated 21.08.2000 for allotment of a plot, but the appellant did not budge to his legal demand, forcing him to issue a legal notice dated 14.03.2013, under Section 98 of the Punjab Town Improvement Act, 1922. The appellant kept on behaving mercilessly and negligently. For that reason, it did not even reply to the legal notice served upon it, forcing the respondent to file a civil suit in the year 2013.

The trial court, after holding trial, decreed the suit in toto vide judgment and decree dated 30.01.2017, directing the appellant-defendant to allot a plot measuring 300 Sq. Yds. to the respondent-plaintiff in a scheme called as "340 Acre Development Scheme" sanctioned by the State Government (Local Government Department) vide its notification dated 17.01.1990, at the earliest.

Appellant-defendant being dissatisfied, unnecessarily laid challenge to the aforesaid judgment and decree before first appellate court, but remained unsuccessful, as its appeal was too, dismissed vide judgment and decree dated 28.02.2018.

Learned counsel contends that there were several co-sharers in the acquired land. Therefore, as per policy of the appellant, no objection certificate was required to be obtained from all co-sharers before allotment of a plot to the respondent, for which, appellant requested him many a times, but respondent did not submit the same. For that reason, delay occurred in allotment.

After having given thoughtful consideration to the rival submission, this Court finds instant appeal completely devoid of any merits for the reasons to follow:-

1. Filing of instant regular second appeal shows mala fide, dishonest intention, malpractice and torturing attitude of the appellant and its functionaries/officers to cause harassment to innocent citizens or land owners, whose land is compulsorily acquired. Simple action for the appellant-trust was to allot a plot under its scheme to the respondent and his co-sharer as per existing policy, which could have been done within reasonable time. However, the appellant and its functionaries taking all frivolous pleas kept on delaying the matter of allotment of plot under its prevalent "scheme" to the respondent or to his co-sharers, forcing the respondent to approach civil court and fight a legal battle for his legal right. He has already won in two courts.

2. No question of law much less substantial has been raised in the instant appeal. Therefore, considering this aspect of the matter, instant appeal is not maintainable.

3. It is an open secret that the functionaries/Chairman of improvement trust in the State of Punjab after compulsory acquisition of land under the Act, distributed the spoils amongst themselves or in favour of their close relatives and henchmen, intentionally and deliberately curtailing the legal right of the land owners for allotment of a plot.

4. The instant case is a glaring example of such high handedness with chequered history. Notification of the land of the respondent for compulsory acquirement was issued in the year 1990. By this time, around 30 years have passed, but respondent-plaintiff is still struggling for his legal right. It is not understandable as to or for what purpose, the appellant has come before this Court, when two courts have recorded concurrent findings to allot a plot to the respondent-plaintiff measuring 300 sq. yds, out of his total 52 kanals and 8 marlas land, in which, he was one of the co-sharer. Filing of the instant appeal by the appellant itself shows that appellant does not want to allot any plot to the respondent-plaintiff, though, he has legally been declared entitled for the same under its own scheme.

5. The plea taken by the counsel for the appellant that the plot could not be allotted to the respondent on account of no objection from the co- sharer is completely frivolous, inasmuch as, plot was to be allotted to respondent according to scheme.

In view of above, instant appeal is dismissed with exemplary

cost of ₹2.00 lacs, which shall be paid to the respondent-plaintiff. This exemplary cost has been imposed consciously to send a message to all the improvement trust in the State of Punjab, to not to harass the land owners, who are legally entitled for allotment of plots as per its own scheme, inasmuch as, the plots are allotted to strangers after acquisition of land, but the land owners are being forced to fight for their legal right for several decades.

Dismissed.

08.07.2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No