

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

Date of decision: 10.5.2019

1. **RSA No. 436 of 2018(O&M)**

Municipal Committee Charkhi DadriAppellant

VERSUS

Union of India and anotherRespondents

Present: Mr. Jagdish Manchanda, Advocate for the appellant.

2. **RSA No. 1894 of 2018(O&M)**

Ram Bilas (since deceased) through his LRsAppellant

VERSUS

Union of India and anotherRespondents

Present: Mr. J.K. Goel, Advocate for the appellant.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J. (Oral)

This order will dispose of RSA Nos.436 and 1894 of 2018 as these have emerged out of judgments and decrees passed by the Courts whereby suit for declaration, permanent and mandatory injunction filed by respondent- Union of India, Department of Post and Telegraph was decreed by the trial Court vide judgment and decree dated 12.12.2013 and appeals filed by Municipal Committee, Charkhi Dadri and Ram Bilas, appellants in the aforesaid appeals, were decided vide common judgment and decree dated 21.05.2016 passed by the Additional District Judge, Bhiwani.

Counsel representing the appellant in RSA No.436 of 2018 would contend that the dispute pertains to a small plot shown with letters ABCD depicted in Yellow colour in site plan and the said property has been sold by the Committee to Sh. Ram Bilas, appellant in RSA No.1894 of 2018 after seeking permission of Government of Haryana.

Counsel representing the appellant in RSA No.1894 of 2018 would argue that the area of ABCD is 6 ft. x 8 ft and he has deposited the sale consideration with Municipal Committee, Charkhi Dadri on the basis of auction conducted by Municipal Committee, Charkhi Dadri. It is further argued that the respondent- Union of India did not produce any title deed qua the land which is being used by the appellant for the purpose of his small business. It is further argued that a serious prejudice shall be caused to the appellant in case he is deprived of suit land. Counsel would inform that the appellant is ready to pay price of the land in question to Union of India though he has already paid its price to Municipal Committee, Charkhi Dadri. In addition, it is argued that the respondent-UOI has relied upon Rules framed way back in 1937, to stake its claim of ownership qua suit land.

Counsel for the Municipal Committee, Charkhi Dadri, in response to a query, would fairly inform that Union of India through Department of Post and Telegraph submitted a site plan for the purpose of raising construction of new building of Post and Telegraph office in place of old building and in the said site plan, area shown with letters ABCD was also included in the site plan. The site plan submitted by the respondent was sanctioned by the Municipal Committee and accordingly, construction of new building was raised by the Department of Post and Telegraph.

Municipal Committee, Charkhi Dadri never asserted its right to the land marked ABCD at the time of sanction of site plan. Once the Municipal Committee has sanctioned the site plan permitting the Department of Post and Telegraph to raise construction of its building, there was no reason for the Municipal Committee to initiate any proceedings for seeking permission of Government of Haryana for auction of area marked with letters ABCD and to create third party interest on the basis of said auction. It appears that neither the officials of the Municipal Committee, Charkhi Dadri nor the Department that accorded sanction for sale of this area bothered to examine that Municipal Committee, Charkhi Dadri has already sanctioned the site plan submitted by the Department of Post and Telegraph. There is nothing on record suggestive of the fact that Municipal Committee, Charkhi Dadri even raised an issue with UOI that site plan was sanctioned wrongly or area shown as ABCD did not belong to Department of Post and Telegraph. The private appellant, in the given circumstances, cannot be heard to say that since the respondent has relied upon Rules of 1937, it cannot stake its claim qua ownership of the land in question. In this view of the matter, I do not find an error much less illegality in the concurrent findings recorded by the Courts and the same are affirmed.

In view of what has been discussed hereinbefore, finding no merit, the appeals fail and are accordingly dismissed in limine. As the appeals have been decided on merits, all miscellaneous applications shall be deemed to be disposed of. However, Ram Bilas- appellant in RSA No.1894 of 2018 is left at liberty to seek his remedy, in accordance with law, against the Municipal Committee, Charkhi Dadri as he is the sufferer

because Municipal Committee, Charkhi Dadri obtained sanction from the Government for sale of the disputed land despite having sanctioned site plan of Union of India prior in time. In case Ram Bilas (since deceased) represented by his LRs files a representation to Municipal Committee, Charkhi Dadri for allotment of some alternative accommodation, the same would be considered by the authorities concerned sympathetically.

MAY 10, 2019

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no