

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

**RSA-2175-2019 (O&M)
Decided on : 18.08.2020**

Jogi Ram (deceased) through LRs

... Appellant(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Manish Kumar Singla, Advocate
for the appellants(s).

Mr. Pawan Kumar Longia, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

1. The suit for prohibitory injunction filed by the appellant-plaintiff(s) was dismissed by the trial court vide order dated 25th March, 2014. The appeal preferred against the suit decree also failed and was dismissed on 13th December, 2018. The appellants (legal heirs of the plaintiff) are now before this Court in Regular Second Appeal. Parties to the *lis* hereinafter shall be referred to by their original positions in the suit.

2. The prayer of the plaintiffs was for prohibitory injunction to restrain the defendants from forcibly dispossessing them from the suit land measuring 178.42 acres (surplus land of old Canal Rest House) situated in Village Rajpura, Tehsil Narnaund, District Hisar. In brief, the case set out by the plaintiffs was that they were bona fide purchasers of the suit land put up for auction by the defendants on 19.01.2004, after having emerged as the successful bidder in the said auction and further having deposited Rs. 17.51 lakhs (i.e. 25% of the auction amount, which included the advance money of

notice dated 18.12.2003. The further case of the plaintiffs that after the deposit of the aforementioned earnest money, since no letter of approval had been received from the defendants even after a passage of reasonable time, the only presumption that could have been drawn was that the auction in respect of the suit land stood approved by the competent authority and as a consequence thereof, the contract between the parties also stood concluded. The plaintiffs thereafter levelled the suit land which was uneven and spent about Rs. 50,000/- per acre. Subsequently, the defendants vide letter No. 18/58/2001-71W, dated 16.06.2005, directed for reassessment of the market value of the suit land and on 19.10.2005, the Committee constituted for the purpose of reassessment fixed the reserve price/collector rate of the suit land @ Rs.2.50 lakhs per acre and attempted to dispossess the plaintiffs. Thus, this suit.

3. In the written statement filed by the defendants, it was *inter alia* pleaded that it was clearly stipulated in the auction notice as well as announced at the time of the open auction that the Government was the competent authority to accept or reject the auction. Further, on account of the bids being low in rates, the Government which was the competent authority had decided to re-auction the land in question vide letter No.18/58/2007W, dated 19.03.2007. The order dated 19.03.2007 vide which the land in question was ordered to be put up for re-auction was challenged before this Court by the plaintiffs by way of CWP No.8970 of 2007. The aforementioned CWP was dismissed and even the Letters Patent Appeal (LPA) preferred against the dismissal, met the same fate. Hence, there was no question of registration of any document in respect of the land in question, in favour of the plaintiffs. The defendants also submitted that the amount of Rs.17.51 lakhs, which had been deposited as 25% of the

auction amount by the plaintiffs, already stood refunded in favour of the plaintiffs vide cheque No. 10301, dated 16.11.2009, as per decision taken by the Government of Haryana vide letter No. 1/58/2007 HW dated 26/31st July, 2007.

4. Upon consideration of the matter in issue and the evidence on record, both the Courts below concurrently concluded that there was no substantive piece of evidence on record to prove the possession of the plaintiffs over the suit land. Moreover, there was no contract concluded and executed between the plaintiffs and the defendants as per the provisions of the Indian Contract Act, 1872.

5. To prove their claim, the plaintiffs examined three witnesses i.e. Rajbir Singh as PW-1, Shish Ram as PW-2 and Dalbara as PW-3 and tendered documents Ex.P-1 to P-21 in support of their case.

6. Undoubtedly, these three witnesses stepped into the witness-box to prove the possession of the plaintiffs over the suit land, however, no documentary evidence was brought on record by them to prove their possession over the suit land. Rather, the only evidence led by the plaintiffs to prove their possession over the suit land was the statements of some witnesses, who were employees in the defendant Department, in a criminal case, titled as, 'State Vs. Jogi Ram', wherein, they deposed that the plaintiffs were in possession of the suit land. The courts below rightly discarded this piece of evidence, as it could not be said to be a substantive piece of evidence to prove the possession of the plaintiffs over the suit land.

7. Admittedly, the plaintiffs did make a payment of 25% of the auction amount but it was clearly stipulated in the auction notice that the remaining 75% of the amount was to be deposited only on receipt of sanction from the competent authority, who in turn could cancel or change

the auction fully or partly thereafter without assigning any reason. It is, moreover, clearly discernible that the plaintiffs were well aware and conscious that the auction proceedings had not yet concluded and that was precisely the reason why they approached this Court by way of CWP No.8970 of 2007 for issuance of directions to the respondents (defendants herein) to execute the contract between them and confirm the auction. Still further, it is also a matter of record that an amount of Rs.17.51 lakhs deposited as earnest money and as also noticed in the judgment of the trial Court already stood deposited by the defendants in the Court.

8. Upon being pointedly asked, learned counsel for the appellants failed to refer to anything on record to show that the conclusion so arrived at was either contrary to the record or suffered from any material illegality. Coming to the prayer of the appellants (plaintiffs) for return of the earnest money in the sum of Rs. 17.51 lakhs deposited at the time of auction, the appellants (plaintiffs) are at liberty to get the said amount released, if not, already got released, from the Court concerned by moving an appropriate application in the said regard.

9. In view of above, no ground is made out to interfere with the concurrent findings recorded by both the Courts below. The instant appeal is dismissed being devoid of merits.

(MANJARI NEHRU KAUL)
JUDGE

August 18, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No