

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

RSA No.2725 of 2019(O&M)

Date of decision: 20.1.2020

Divesh Kapoor

.....Appellant

VERSUS

Suresh Bhatia and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Adarsh Jain, Advocate for the appellant.

REKHA MITTAL, J.

Challenge in the present appeal has been directed against judgment and decree dated 26.04.2019 passed by the Additional District Judge, Faridabad whereby appeal against judgment and decree dated 13.03.2019 passed by the trial Court was accepted, impugned judgment and decree was set aside and suit filed by the appellant/plaintiff for declaration with consequential relief of permanent injunction was dismissed with no order as to costs.

The appellant/plaintiff asserted his claim to MOR land adjoining to his house bearing No.5E/70, NIT Faridabad by assailing allotment of said land in favour of respondent/defendant No.1, by Rehabilitation Department, Faridabad.

Perusal of the judgment impugned would reveal that one of the grounds of acceptance of appeal is with regard to jurisdiction of the Civil Court in view of the provisions of Section 14 of the Haryana Evacuee Properties (Management and Disposal) Act, 2008 (in short 'the Act'). The

Court held that suit seeking declaration about an interest in suit property is

not maintainable. Section 14 of the Act bars jurisdiction of the Civil Court.

Counsel for the appellant would argue that as on the basis of decision taken by an authority under the aforesaid Act, a registered document namely conveyance deed has been executed in favour of respondent/defendant No.1, it lies within the domain of Civil Court alone to set aside such a registered deed, therefore, findings of the Appellate Court with regard to lack of jurisdiction of the Civil Court are erroneous and liable to be set aside. For this purpose, reliance has been placed upon judgment of Hon'ble the Supreme Court **Gurbax Singh son of Chanda Singh Vs. Financial Commissioner and another, 1991 Supp (1) Supreme Court Cases 167.** Further reliance has been placed upon Division Bench decision of this Court **State of Haryana and others Vs. Vinod Kumar and others, 1986 PLJ 161.** In addition, counsel also made submissions on merits of the case, in view of allegations raised in the plaint that since respondent No.1 had already sold house No.5E/69 long before he filed an application for allotment of the site in question, he could not maintain such an application nor allotment made in his favour can be allowed to sustain.

Before advertng to the submissions qua merits of the case, it is appropriate to deal with the question of jurisdiction of the Civil Court to entertain and try the present case. Counsel for the appellant has not disputed that suit land is evacuee property governed under the provisions of the Act.

Section 14(1) of the Act germane to the present controversy, reads thus:-

“14. Bar of jurisdiction.

(1) Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter, which the State Government or any officer appointed under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

Perusal of the aforesaid extract leaves no manner of doubt that Civil Court shall have no jurisdiction to entertain any suit or proceeding in respect of any matter which the State Government or any officer appointed under the Act is empowered by or under the Act to determine and no injunction shall be granted by any Court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Act. Counsel for the appellant has not disputed that decision with regard to allotment of the site in question in favour of respondent/defendant No.1 was taken by an officer appointed under the Act. Any conveyance deed/registered deed executed in favour of respondent No.1 is a consequence of an order passed by an authority under the Act. Counsel for the appellant has failed to cite any law that if an order passed by an authority under the Act has ultimately resulted in issuance of a sale certificate or execution of a registered conveyance deed, bar created under Section 14(1) would cease to exist or jurisdiction gets conferred upon the Civil Court to examine correctness of order passed by the authority and execution of conveyance deed based thereupon. The contention of the appellant appears to be fallacious and cannot be accepted.

The two judgments relied upon by counsel for the appellant have got no

bearing on the facts of the case at hand much less to accept contention of the appellant that Civil Court has jurisdiction to decide the controversy raised by the appellant/plaintiff. Since the Civil Court lacks jurisdiction to decide the matter in dispute, examining merits of the case would be an exercise in futility. On the contrary, since this Court has affirmed findings of the Appellate Court that Civil Court lacks jurisdiction to decide the matter in controversy, any findings recorded by the Courts with regard to merits of the case would not operate to prejudice of private litigants in case the appellant takes recourse to appropriate remedy in accordance with law.

In view of what has been discussed hereinbefore, the appeal stands dismissed with no order as to costs.

JANUARY 20, 2020

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no