

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2867 of 2013 (O&M)

Date of Order:13.02.2020

Sohan Singh (since deceased) through his LRs and others

..Appellants

Versus

The Chairman, Amritsar Improvement Trust, Amritsar

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajbir Singh Randhawa, Advocate
for the applicant-appellant.

Mr. Amar Singh, Advocate, for
Mr. Alok Kumar Jain, Advocate
for the respondent.

ANIL KSHETARPAL, J.

C.M.No.1786-C-2020

Prayer in this application is for bringing on record the legal representatives of Sohan Singh-appellant.

For reasons mentioned in the application, which is supported by an affidavit, the application is allowed, subject to all just exceptions. The legal representatives mentioned in paragraph 3 of the application are brought on record for the purpose of prosecuting this appeal only.

Amended memorandum of parties filed along with the application is taken on record.

MAIN

The plaintiff-appellant has filed this regular second appeal against the concurrent finding of fact arrived at by the courts below, dismissing his suit filed with following caption:-

“Suit for declaration to the effect that plaintiff is entitled to get sale deed executed, in respect of Plot No.204, Defence Colony, D-Block, Ajnala Road, Amritsar, which was allotted to plaintiff in the year 1988, with mandatory injunction directing the defendant to execute the sale deed qua said plot measuring 200 square yards @ 135/0 per square yards, after receipt of balance consideration, with permanent injunction restraining the defendant from allotting or transferring said plot in any way to anybody else except plaintiff.”

Plaintiff claims that he was declared highest bidder in a public auction held in the year 1988 with respect to Plot No.204. Consequently, he deposited a sum of Rs.4,000/-. It is the case of the plaintiff that thereafter allotment letter was never issued to the plaintiff as there was some litigation pending. Plaintiff filed the present suit on 11.05.2011. The suit was contested on the ground that the plaintiff never came forward to deposit the remaining amount. However, it was admitted that there was a litigation pending.

Learned trial court on appreciation of the evidence found that aforesaid litigation came to an end in 1992 and the present suit filed by the plaintiff after a period of 19 years from the date previous litigation came to an end is barred by limitation. Plaintiff further failed to prove the representations which were claimed to have been made by him staking claim over the property. Learned first appellate court on re-appreciation of evidence affirmed the aforesaid findings.

This court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the courts below.

Learned counsel for the appellant submits that once the factum

of pendency of previous litigation is admitted, it was incumbent upon the defendant to inform the plaintiff of the decision and call upon him to deposit the balance amount. He also referred to the statement of Sulekha Rani, an official, who appeared on behalf of Amritsar Improvement Trust.

On the other hand, learned counsel for the respondent has submitted that the plaintiff after depositing initial amount of Rs.4,000/- abandoned his rights as would be clear from the fact that he never chose to stake any claim or file suit for a period of 23 years. He, hence, submitted that the courts have rightly dismissed the suit.

On consideration of the matter, this court is of the considered view that the suit filed by the plaintiff is hopelessly barred by time as correctly found by both the courts below. Plaintiff was a successful bidder in 1988. After deposit of Rs.4000/- on 07.01.1988, plaintiff did not take any step for a period of 23 years. He also did not deposit further payment. Even if the time when another litigation was pending is excluded, still for a period of 19 years, the plaintiff failed to prove any overt action on his behalf to claim the ownership of the plot. Total inaction on part of the plaintiff for a period of 19 years clearly establish that the plaintiff had, in fact, abandoned his rights.

In view thereof, there is no ground to interfere.

Dismissed.

February 13, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No