

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

RSA No. 869 of 2018 (O&M)

Date of decision: 05.02.2020.

Sandip and another

..... Appellants.

Versus

State of Haryana and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Adeshwar Singh Pannu, Advocate, for
Mr. Vikas Singh, Advocate, for the appellants.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellants/plaintiffs have challenged the judgments and decrees of the Courts below whereby the suit preferred by them has been dismissed.

Learned counsel for the appellants/plaintiffs contends that the judgments and decrees passed by the Courts below are unsustainable in law and the same deserve to be set aside.

Heard.

The appellants/plaintiffs had filed a suit for declaration to the effect that the land measuring 1057 sq. yards comprised in Khatta No. 725, Khasra No.453//2/1 situated within the revenue estate of Patti Gadar, Kaithal, Tehsil and District Kaithal, along with residential houses and thirteen shops, fully shown in red colour in the site plan marked by letters 'ABCD' attached with the plaint, was owned and possessed by them. They also sought a relief of permanent injunction restraining the respondents/defendants from interfering in the rights of the appellants/plaintiffs over the suit property.

It is manifest from the material on record that the suit property was acquired by the respondents/defendants under the Punjab Town Improvement Act, 1922 ('Act' - for short). The notices under Section 38 of the Act were duly served and the objections were also received from the appellants/plaintiffs. After due consideration of the objections, the respondents/defendants had issued notification under Section 40 of the Act acquiring the land in dispute.

Furthermore, the appellants/plaintiffs had earlier preferred a civil writ petition on the same *cause of action*, bearing CWP No.10656 of 2005, which was dismissed by this Court on 08.01.2007. The special leave petition, i.e. SLP No.2003 of 2008, preferred thereagainst was also dismissed by the Supreme Court on 14.02.2011.

Therefore, as the appellants/plaintiffs had already challenged the notification in respect of the suit property in the aforementioned civil writ petition which had been dismissed and the order had attained finality, it was not open to the appellants/plaintiffs thereafter to prefer a civil suit on the same *cause of action*.

Consequently, I do not find any merit in the appeal, which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

05.02.2020
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No