

(Proceedings through V.C.)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No. 589 of 2021 (O&M)
IN
CWP No.12231 of 2021

Date of Decision: 16.07.2021

Dharampal	...	Appellant
	Versus	
State of Haryana and others	...	Respondents

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

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

Ms.Tanisha Peshawaria, DAG, Haryana.

ASHOK KUMAR VERMA, J.

1. This is a intra court appeal which arises out of the order dated 09.07.2021 passed by the learned Single Judge of this Court whereby the writ petition filed by the petitioner to declare the action of the respondents in transferring plot No. 216, Old Civil Hospital Complex, Sirsa, in favour of respondent No. 7 and subsequently in favour of respondent No. 8 to be illegal, arbitrary and contrary to the records, has been dismissed.

2. The case in hand is that one Ram Rakha was allotted the said plot by the Municipal Committee, Sirsa and subsequently the said plot was entered in the name of one Smt. Mishro Kaur, after various transfers, on 29.7.1998. She allegedly entered into a transfer

agreement on 11.10.2003 in favour of one Anand Kumar. However, he failed to pay the requisite amount. On his request, the appellant is alleged to have paid the amount to Smt. Mishro Kaur which she acknowledged vide an affidavit dated 17.01.2004. The appellant is stated to have applied for transfer of the plot in his name vide an application dated 14.07.2009. The story of transfer goes on further which is not necessary for adjudication of the present matter by this Court. The learned Single Judge after considering all these aspects dismissed the writ petition vide the impugned order dated 09.07.2021. Hence, the appellant has challenged the said order before this Court in this Letters Patent Appeal.

3. Learned counsel for the appellant, *inter alia*, submits that the learned Single Judge has wrongly observed that the matter involves a disputed question of facts. He contends that by no stretch of imagination, the transfer agreement could be held to be proved by leading cogent evidence. He further contends that the learned Single Judge has erred in holding that the mutation entry was entered in the records 11 years ago i.e. on 02.06.2010 and the ownership of the property is in dispute and a civil suit for declaration of title is maintainable.

4. We have heard the learned counsel for the parties and perused the paper-book.

5. The submissions for the learned counsel for the appellant are erroneous and misleading. A very perusal of the story depicted in the writ petition by the appellant itself shows that the matter involves disputed questions of fact and it is a settled proposition of law that

disputed questions of fact cannot be adjudicated by Writ Court in exercise of writ jurisdiction under Articles 226/227 of the Constitution of India. Learned Single Judge has rightly observed that the matter needs to be adjudicated in a civil suit by leading documentary evidence. The authenticity and evidentiary value of the revenue records and agreement to sell/transfer agreements etc. can only be proved by leading documentary evidence in a civil suit. Furthermore, it is not disputed by the appellant that mutation entry in the Municipal record was entered 11 years back in the year 2010. A stale claim cannot be entertained by this Court in exercise of writ jurisdiction under Articles 226/227 of the Constitution of India. The matter suffers from inordinate and unexplained delay and laches. In this view of the matter, we see no reason to interfere with the impugned order passed by the learned Single Judge of this Court.

6. In view of the above, the LPA is dismissed *in limni*. Consequent upon the dismissal of the LPA, Miscellaneous Application Nos. 1456-LPA-2021 and 1457-LPA-2021 shall also stand disposed of accordingly.

(ASHOK KUMAR VERMA)	(AUGUSTINE GEORGE MASIH)
JUDGE	JUDGE

16.07.2021
MFK

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>