

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 233 of 2022 (O&M)

Date of Decision: 14.02.2022

Naresh Aggarwal

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sumeet Goel, Senior Advocate
with Mr. Samir Rathaur, Advocate
for the petitioner(s).

Mr. Samarth Sagar, Additional Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. Heard learned senior counsel representing the appellant.
2. The plaintiff assails the concurrent findings of fact arrived at by both the Courts below, while dismissing the suit, filed by him, against the State of Haryana. The plaintiff claims that the State of Haryana and its officials should be restrained from demolishing the shops and interfering into his possession. The plaintiff further claims that he is an owner in possession of the land comprised in Rectangle No. 22 and Killa No. 22/3 (1K-14M), located in village Sarai Alawardi, Tehsil and District Gurugram. The suit was contested on the ground that the total land comprised in Killa No.22 was 7 Kanals & 8 Marlas. On bifurcation of the aforesaid khasra number, two khasra numbers were created i.e. 22/1 and 22/2. The Khasra No. 22/1 was acquired by the State of Haryana, by way of award No. 37

dated 31.03.1997, passed by the Land Acquisition Collector, in exercise of the powers under the Land Acquisition Act, 1894. The land measuring 1 Kanal & 4 Marlas was previously with M/s Ansal Properties and it was transferred to the State in lieu of their license to develop the said area.

3. The appellant relies upon the Arbitrator's award declaring him to be the owner. The appellant has failed to prove the title of his predecessor. Furthermore, as already noticed, the total area of the land comprised in Khasra No. 22 was 7 Kanals & 8 Marlas, out of which 6 Kanals & 4 Marlas was acquired by the State, whereas the land measuring 1 Kanal & 4 Marlas were used for the roads. Both the Courts below have also found that the appellant, now, wants to take possession of the area, which has already been acquired.

4. The learned senior counsel representing the appellant contends that in view of the Arbitrator's award, the appellant has been declared as owner of the land in question and in the absence of any challenge to the validity of the aforesaid award, both the Courts below have erred in dismissing the suit. On a Court question, the learned senior counsel fairly admits that neither the State of Haryana nor the Haryana Urban Development Authority was party to the aforesaid arbitration proceedings.

5. Since the plaintiff has failed to prove the possession as well as title of his predecessor-in-interest, therefore, both the Courts below have correctly ordered dismissal of the suit. The arbitration award is binding between the parties, but it cannot bind down the non-parties to the arbitration proceedings.

6. The learned senior counsel representing the appellant further

submits that in a demarcation report, the appellant was found to have already constructed seven shops. Since the property has already been acquired, on payment of compensation, hence, all its rights, title or interest in the land vest with the State without any encumbrance. The appellant, therefore, is also not entitled to any equitable relief.

7. In view of the aforesaid facts, no ground is made out to interfere. Consequently, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 14, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No