

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

RSA-1310-2021 (O&M)

Date of decision : 29.11.2022

Karamjit Singh

...Appellant

Vs.

Major Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. N.K. Verma, Advocate for the appellant.

Mr. Jashan Chopra, Advocate for
Mr. Rakesh Chopra, Advocate for the respondent.

MANOJ BAJAJ, J.

Appellant (defendant) is aggrieved against the judgement and decree dated 4.8.2021 passed in Civil Appeal No.20/2019 by Additional District Judge, Fatehgarh Sahib, whereby the judgment and decree dated 20.11.2018 passed by Addl. Civil Judge (Sr. Division), Khamanon decreeing the suit for possession filed by plaintiff (respondent), was upheld.

The facts, in brief, leading to the appeal are that the plaintiff (respondent) filed a suit for possession in respect of a constructed house bearing No.6, measuring 125 sq. yards situated at village Chadiala, Tehsil Khamanon, District Fatehgarh Sahib, which was allotted to him by the then SDO Khamanon under the policy promulgated by the State of Punjab, meant for rehabilitation of helpless and poor people, particularly SC/BC and other needy people at village Chadiala. As per the pleadings, the suit property was

allotted to the plaintiff vide letter dated 22.02.2000 and the same was in illegal possession of the defendant, therefore, the BDPO, Khamanon vide letter No.1018 dated 8.6.2000 had directed that the possession of the property be handed over to the plaintiff. On 5.7.2000, possession of the suit property was delivered to the plaintiff, but on the next day, when plaintiff along with his family was out of town, the defendant forcibly took possession of the said house. In this regard, a criminal case against defendant under Section 447, 448, 379, 148, 149 and 406 of Indian Penal Code was also filed by way of a criminal complaint. Broadly on this cause of action, the plaintiff sought for a decree for possession.

Upon notice, the suit was contested by the defendant-appellant by filing a written statement, wherein various preliminary objections relating to the maintainability of the suit etc. were raised and, on merits, it was pleaded that the plaintiff is not the owner of the property. As per the averments, plaintiff is doing the job, who also owns two acres of land and previously, the suit property was allotted to the defendant, who was put in possession of the same. According to the defendant, the plaintiff relied upon forged documents, whereupon a direction was issued by District Welfare Officer to hand over the possession of suit property to him. Denying the other averments, it was prayed that the suit be dismissed.

Further the contents of the written statement were controverted by the plaintiff, who filed the replication and reiterated the averments contained in plaint and maintained the stand that the suit property was allotted to him being a poor person.

After completion of pleadings of the parties, the trial Court in all

framed six issues and thereafter, the parties adduced their respective evidence. Upon considering the pleadings and evidence on record, the trial Court proceeded to decide the material issues No.1 and 1-A against the defendant and in favour of the plaintiff.

Aggrieved against the said judgment and decree dated 20.11.2018 passed by the trial Court, the plaintiff preferred appeal bearing No.20 of 2019, however, the same was also dismissed through impugned judgment and decree dated 04.08.2021. Hence, this second appeal.

Learned counsel for the appellant has argued that the appellant infact is a poor person and the suit property was allotted to him and the plaintiff was not entitled to the allotment, because his father was an owner of two acres of land. He submits that the criminal case lodged by the plaintiff ended in acquittal of the defendant, but the trial Court as well as the Appellate Court failed to appreciate the evidence properly, therefore, the impugned judgment and decree passed by both the Courts warrants interference by this Court.

During the course of hearing, it is not disputed by learned counsel that no documentary evidence was adduced by the defendant to establish that suit property was allotted in his favour. Learned counsel has raised his arguments on illegal allotment of property in favour of the plaintiff to assail the judgement and decree passed by both the Courts.

After hearing the learned counsel and considering the material on record, this court finds that the respondent-plaintiff has produced documentary evidence to establish that the suit property was allotted to him by the competent authority under a policy formulated by the State in order to

rehabilitate the poor persons. PW-4 Sikander Singh deposed before the Court that the suit property was allotted in favour of the plaintiff and no allotment was made in favour of the defendant. As per this witness, the possession of property was handed over to the plaintiff by taking police help and the document Ex.P-3 dated 5.7.2012 proved delivery of possession. Apart from the documentary evidence of allotment in favour of the plaintiff, defendant Karamjit Singh suffered vital admissions including his concession of delivery of possession to the plaintiff as he was residing in the suit property temporarily.

The argument that suit property was wrongly allotted to plaintiff is also without any merit, as this issue cannot be gone into by this Court at the stage of second appeal, as admittedly the allotment of suit property was not challenged by the defendant. The findings recorded by both the Courts are based upon proper appreciation of documentary evidence on record, therefore, it cannot be said that the findings returned by both the Courts are perverse.

Thus, no case is made out for interference by exercising jurisdiction under Section 100 CPC, as no substantial question of law is involved.

Resultantly, the appeal fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

29.11.2022
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Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No