229

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 08.07.2022

1. RSA No.2928 of 2011 (O&M)

Punjab State Industrial Development Corporation Limited

....Appellant

Versus

Kaushalya Rani and others

....Respondents

2. RSA No.2930 of 2011 (O&M)

Punjab State Industrial Development Corporation Limited

....Appellant

Versus

Madhvi Maini and others

....Respondents

3. RSA No.3081 of 2011 (O&M)

Punjab State Industrial Development Corporation Limited

....Appellant

Versus

Darpan Sekhri and others

....Respondents

4. RSA No.3269 of 2011 (O&M)

Punjab State Industrial Development Corporation Limited

....Appellant

Versus

Vinod Kumar Sekhri and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Varun Mittal, Advocate
for the appellant (in RSA-3081-3269-2011)
and for the respondents (in other appeals)

Mr. Aakash Singla, Advocate
for respondents No.1 to 4 (in RSA-3081-2011)
and for respondent No.1 (in RSA-3269-2011)

Mr. Puneet Kansal, Advocate
for respondents No.2 to 5.

Mr. Gurmeet Singh, Advocate
for the proforma respondents (in all the appeals)

ARVIND SINGH SANGWAN J. (Oral)

The respondents/plaintiffs filed a suit for declaration against the appellant Punjab State Industrial Development Corporation Limited (for short 'the Corporation'), praying for a decree of declaration that it has no right to seize the vehicles which belong to the respondents/plaintiffs.

The suit was contested by the appellant on the ground that the Corporation has provided loan to M/s. Northland Sugar Complex, which became a defaulter and in exercise of powers under Section 29 of the State Financial Corporation Act, 1951, physical possession of all the assets of M/s. Northland Sugar Complex, was taken and later the same were put to auction.

The trial Court vide judgment dated 04.12.2007 decreed the suit by recording a finding that it has come in the statement of DW2 Om Parkash Saluja, Secretary of PSIDC that there is no entry regarding hypothecation/hire purchase of the vehicles in dispute and whatever movable or immovable was hypothecated or pledged with the appellant – PSIDC. The charge/lien was entered in their respective record and the same has been sold. The trial Court held that the appellant – PSIDC has no right to take possession of the 04 vehicles, in exercise of power under Section 29 of the State Financial Corporation Act and granted a decree to give back the possession of the vehicles and further the defendant/appellant was directed to hand over the physical possession of the vehicles.

The Corporation did not file any appeal before the Lower Appellate Court, however, the plaintiffs filed appeal on the ground that the vehicles have already been sold so the equivalent value be returned.

Admittedly, the vehicles were already sold by the appellant – PSIDC, and the plaintiffs filed an appeal before the Lower Appellate Court praying for grant of compensation/the value of the vehicles and the appeal filed by the respondents/plaintiffs was allowed by passing the following order:-

> *"15. The plaintiffs have failed to prove the extent of damages offered by them. The tractors and truck have been ordered to be returned to the plaintiff by the learned trial court. No cross appeal/cross objections have been filed by any of the defendant. However, the plaintiffs have been deprived of their vehicles since 17.7.1996 which were illegally handed over by defendant No.1 to defendant Nos.2 and 3 at the time of handing over of the possession of sugar complex after an open auction. Although the plaintiff have claimed Rs. 12,000/- per tractor and Rs. 20,000/- on account of truck as damages suffered by them, but they have failed to substantiate the same. The suit was filed on 24.5.1999. On 17.7.1996 the vehicles were 14, 7, 7 and 18 years old as per pleaded cases of the plaintiffs. Thus, as per guess work, it can be said that the plaintiffs could not earn more than Rs.1500/ per tractor and Rs.2,000/- qua the truck per month by plying these vehicles when they were deprived of their possession by defendant No.1 and as such, they are entitled to receive Rs. 1500/- per month per tractor and Rs.2,000/- qua truck per month with effect from 17.7.1996 till the date of filing of the suit i.e. for a period of 34 months. Hence they are entitled to Rs.51,000/- per tractor i.e. Rs. 1,53,000/- for three tractors and Rs.68,000/- for the track. Accordingly*

the findings of the learned trial court under issue No. 4 are set aside and this issue goes in favour of the plaintiffs and against the defendants.

16. No other point was argued before this court.

17. Consequently the appeal is accepted and the decree under appeal is modified to the extent that the plaintiffs would also be entitled to recover Rs. 1,53,000/- for three tractors and Rs.68,000/- for the truck in question as damages. The defendants are directed to make payment of this amount within two months from today, failing which plaintiffs would be entitled to claim interest @ 6% per annum on this amount from the date of decree passed by the learned trial court till payment is made. The plaintiffs have not affixed the court fee at the time of filing of this suit. If they affix the court fee on the abovesaid amounts, which they were required to affix at the time of filing of this suit as well as at the time of filing of the appeal within 15 days from today, this decree would come into operation. failing which appeal would be deemed to have been dismissed. Parties are left to bear their own costs. Decree sheet be prepared, trial court record be returned and file of this court be consigned to the record room."

It is argued on behalf of the appellant that the vehicles, in question were taken in possession by the appellant PSIDC in exercise of power under Section 29 of the State Financial Corporation Act as the same belong to M/s. Northland Sugar Complex.

However, it is submitted on behalf of the respondents/plaintiffs that since it is own case of the appellant that no hypothecation or lien was ever entered in favour of the appellant PSIDC, therefore, it had no right either to take the possession of the vehicles or further sell the same by way of public auction, therefore, the trial Court as well as the Lower Appellate Court have recorded a finding of fact that the action of the appellant/defendant was illegal.

After hearing the counsel for the parties, I find no merit in the present appeals. As noticed by the trial Court, it has come in the statement of DW2 that there was no lien on the 04 vehicles, which were also taken in possession, in exercise of power under Section 29 of the State Financial Corporation Act, and further were sold. Even otherwise in the evidence, no such document was produced from the Registration Authority to show that any such endorsement was made in the record of the Regional Transport Authority that the vehicles were also hypothecated with the appellant – PSIDC.

Accordingly, finding no merit, the present appeals are dismissed as no substantial question of law is involved.

A photocopy of this order be placed on the file of other connected cases.

(ARVIND SINGH SANGWAN)
JUDGE

08.07.2022
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No