

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

**RSA-4809-2015 (O&M)
Date of decision: 27.10.2022**

Market Committee, Bhiwani and others

... Appellants

Vs.

Sita Ram

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bhupeshwar Jaswal, Advocate
for the appellants.

Mr. Abhimanyu Singh, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

CM-11538-CII-2015

Prayer in this application is for condonation of delay of 121 days in
filing the appeal.

Heard.

For the reasons stated in the application, the same is allowed and
delay of 121 days in filing the appeal is condoned.

RSA-4809-2015 (O&M)

Challenge in this appeal is to the judgment and decree dated
21.09.2012 passed by the Civil Judge (Jr. Divn.), Bhiwani, vide which suit for
declaration filed by the respondent-plaintiff against the appellants-defendants

was decreed and the impugned letter No.1227 dated 20.11.2006 issued by defendant No.3-Market Committee, Bhiwani, demanding the interest on the principal amount, was held to be illegal and not binding on the right of the respondent-plaintiff as well as the judgment and decree dated 31.10.2014 passed by the lower appellate Court, vide which the appeal filed by the appellants was also dismissed.

Brief facts of the case are that the respondent-plaintiff filed a suit for declaration against the appellants-defendants praying for a declaration that letter No.1227 dated 20.11.2006 issued by defendant No.3 offering possession of plot No.144, situated in the Additional New Grain/Fodder Market, Bhiwani is illegal and not binding on his right and further, he is entitled to receive back the amount of interest, which the defendants have charged on principal amount of installments and the defendants are not entitled to claim any interest or penal interest on the remaining installments of the said plot, as they have not completed the development work in the area, where the plot is allotted. It is further stated that in an auction held on 21.03.2006, the plaintiff purchased the shop in dispute for Rs.22,31,000/- vide allotment order No.1193 dated 20.11.2006 and as per the schedule, the plaintiff was paying the installments, however, on account of non-development of the area like providing the minimum basic facilities such as water supply, sewerage line, roads and electrification, he could not construct the shop and earn the profit, for which it was purchased, therefore, when defendant No.3 issued the letter No.1227 dated 20.11.2006 claiming the interest or the penal interest, he filed the present suit.

As noticed above, the suit was decreed in favour of the plaintiff by

both the Courts below.

Learned counsel for the appellants has argued that the suit was instituted on 23.11.2011, whereas the possession was handed over to the respondent-plaintiff on 20.11.2006, therefore, there is a delay of about 05 years in filing the suit. It is further argued that the plaintiff had not made the payment in time, therefore, after giving notice to deposit the balance amount, the impugned letter was issued. It is also submitted that the appellant-Market Committee is well within its right to claim the interest/penal interest on the delayed payment.

Learned counsel for the respondent has relied upon a judgment of this Court **dated 27.02.2019 passed in RSA-727-2015 titled as Market Committee Vs. Hari Charan** as well as another **judgment dated 11.03.2015 passed in RSA-839-2015 titled as Market Committee, Bhiwani and others Vs. Sita Ram**. Both these judgments relate to the same Market Committee, wherein similar question was before this Court and dismissed the appeals filed by the Market Committee. The operative part of the order dated 27.02.2019 passed in RSA-727-2015 reads as under: -

*“There is no representation on behalf of the Market Committee, Bhiwani, despite the fact that the matter was taken up on 6.2.2019 when the learned counsel for the respondent had submitted that a similar issue stood decided by this Court in **RSA No. 839 of 2015 titled Market Committee Bhiwani and others Vs. Sita Ram on 11.3.2015**. On this, learned counsel for the appellant had sought time to go through the said judgment.*

*This Court has gone through the judgment rendered in **Market Committee, Bhiwani's (Supra)**, which has since attained finality. The dispute in the aforesaid case pertains to the same auction and the same terms and condition of the allotment letter as are challenged in the instant case. Plot No. 224 measuring 20x85 feet situated at Additional New Grain and Fodder Market, Bhiwani was purchased by the allottee (in RSA No. 839 of 2015). The allottee was offered plot despite the basic amenities being not provided and by the Municipal Committee and was being pressurized to deposit the installments with interest and penal interest, which was challenged by the allottee and both the courts below decreed the suit passed in favour of the plaintiff. This Court, while affirming the judgments and decree of the courts below, held that till basic facilities are not provided, they would not be entitled to claim interest or penal interest on the disputed plot.*

A reading of the judgment rendered in Market Committee's case (supra) would reflect that the issue raised in this case is no longer res integra and the same stand settled in the aforesaid case. The plaintiff herein was allotted Plot No. 238 under the same auction and is located in the same market area and the terms and conditions of the allotment are identical to the allotment of Plot 224 (in RSA No. 839 of 2015).

In view of the fact that the issues as raised in the present case are identical to the issue as raised in RSA No. 839 of 2015

titled Market Committee Bhiwani and others Vs. Sita Ram and the same stand settled by this Court on 11.3.2015, no interference is called for in this appeal.

Consequently, this appeal is dismissed being bereft of any merit.”

Learned counsel for the appellants could not dispute the factual position that judgment dated 11.03.2015 passed in **RSA-839-2015**, which is relied upon in the judgment dated 27.02.2019, has attained the finality.

After hearing learned counsel for the parties and finding no merit in the present appeal, which is based on pure findings of fact, same is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

27.10.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No