

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.140 of 2013 (O&M)
Date of decision 12.04.2023

OM PARKASH SINGLA

.....Appellant

Versus

STATE OF HARYANA AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Sanjiv Gupta, Advocate for the appellant.
Mr. Satish Singla, AAG, Haryana for respondent Nos.1 to 3.
Ms. Ishita Negi, Advocate for Mr. Namit Gautam, Advocate for
respondent No.4.

B.S. WALIA, J.

[1] Instant Regular Second Appeal has been filed against the judgment and decree dated 26.10.2012 passed by the learned Additional District Judge, Sirsa in Civil Appeal No.80-CA of 2012 upholding the judgment and decree dated 09.05.2012 passed by the learned Civil Judge (Sr. Div.), Sirsa in Civil Suit No.415-C of 2006 in case titled as Om Parkash Singla vs. The State of Haryana and others vide which Civil Suit No.415-C of 2006 filed by the plaintiff/appellant was dismissed with costs.

[2] Civil Suit No.415-C of 2006 was filed by the plaintiff/appellant with a prayer for mandatory injunction against the defendants/respondents on the averments that he was an employee of Municipal Council, Sirsa and had retired from service on 31.05.2002 and during service rendered by him under defendant/respondent No.4, Haryana Government carved out plots situated in Municipal Council Colony, Hansi Road, Sirsa for allotment to employees of Municipal Council, Sirsa in the year 1972 and he was also

allotted a plot under the scheme along with a co-employee, but actually, he was allotted half plot of size measuring 19' x 47½' while the other half plot was allotted to his co-employee i.e. Mani Ram but the defendants/respondents had assured him that he would be given another plot in the next allotment and believing the assurance of the defendants/respondents, he had accepted allotment of half plot instead of full plot. Subsequently, the Haryana Government/Municipal Council, Sirsa carved out another colony for allotment of plots to employees of Municipal Council, Sirsa at Begu Road, Sirsa in which Mani Ram, co-employee of the plaintiff/appellant was allotted plot No.270 in lieu of earlier having been allotted only half plot in Municipal Council Colony, Hisar Road, Sirsa but he was not allotted any plot in said Colony in lieu of his having been allotted half plot earlier. Claiming discrimination, the plaintiff/appellant allegedly made several requests/representations whereafter he filed a civil suit praying for a decree of mandatory injunction for directing the defendants/respondents to allot one plot to him in Municipal Council Colony, Begu Road, Sirsa or in any other colony of the Committee in lieu of his remaining share of the plot and to hand over the possession of the same to him.

[3] In response, defendant/respondent No.4 – Municipal Council, Sirsa filed a written statement while defendants/respondent Nos.1 to 3 adopted the same. Defendant/respondent No.4 in its written statement took up the stand that the plaintiff/appellant had retired from service on 31.05.2002 and during service, he was allotted a plot in Municipal Council Colony, Hisar Road, Sirsa whereas one plot adjoining the plot of the plaintiff/appellant was allotted to his co-employee namely Mani Ram,

same must have been allotted as per rules and after the sanction of the Government and if the plaintiff/appellant had any grievance then he was required to raise objection at the relevant time before the competent authorities. Plea of the plaintiff/appellant that the defendants/respondents had given assurance to allot another plot to him was denied and it was further contended that the plaintiff/appellant had accepted the allotment of the plot initially allotted to him without any reservation, that in the year 1988, the Municipal Council, Sirsa had allotted plots to employees of Municipal Council, Sirsa in Municipal Colony No.2 Sirsa as per rules but till date sanction for the same had not been accorded by the Government and there was no question of the defendants/respondents acting in a discriminatory manner. Rest of the averments made in the plaint were denied and prayer was made for dismissal of the civil suit.

[4] On the pleadings of the parties, the following issues were framed:-

1. *Whether plaintiff is entitled to mandatory injunction as prayed for?*
2. *Whether suit of the plaintiff is not maintainable in the present form?*
3. *Whether plaintiff has got no locus standi and cause of action to file the present suit? OPD*
4. *Whether plaintiff has concealed the material facts from the Court? OPD.*
5. *Whether suit of the plaintiff is bad for mis-joinder and non-joinder of necessary parties? OPD*
6. *Relief.*

[5] On the basis of the pleadings and evidences led by the parties, the learned trial Court dismissed the civil suit with costs while the appeal filed by the plaintiff/appellant met with the same fate.

[6] Learned counsel for the plaintiff/appellant contended that the plaintiff/appellant was entitled to allotment of plot at par with the other employee i.e. Mani Ram, Driver and once allotment was made in favour of the other employee, the plaintiff/appellant was also entitled to the allotment of plot without any discrimination even though sanction had not been accorded/approved by the Government for allotment of plots in Municipal Council Colony No.2 Sirsa, in order to maintain uniformity and plaintiff's/appellant's claim could not be denied only on ground of limitation.

[7] Per contra, learned AAG appearing on behalf of respondent Nos.1 to 3 and Ms. Ishita Negi, Advocate appearing for Mr. Namit Gautam, Advocate for respondent No.4 vehemently opposed the claim of the plaintiff/appellant and contended that both the Courts below had passed a very well reasoned order after taking into account all aspects of the matter and that in the circumstances, the same did not warrant any interference.

[8] I have considered the submissions of learned counsel.

[9] Admittedly, the plaintiff/appellant was an employee of the Municipal Council, Sirsa and retired from service on attaining the age of superannuation on 31.05.2002 while working as Accountant in the office of Municipal Council, Sirsa. While the plaintiff / appellant was serving under defendant/respondent No.4, Government of Haryana carved out plots in Municipal Council Colony, Hisar Road, Sirsa for allotment of the same to employees of Municipal Council, Sirsa in the year 1972. The plaintiff/appellant was allotted a plot under the scheme along with his co-employee but grievance of the plaintiff/appellant is that he was given only half plot measuring 19' x 47½' while the remaining half plot was given to

him on the assurance that he would be given another plot subsequently. Admittedly, Govt. Municipal Council, Sirsa carved out another colony for allotment of plots to employees of the Municipal Council, Sirsa at Begu Road, Sirsa in which Mani Ram, the co-employee is stated to have been allotted plot No.270 allegedly in lieu of half plot allotted to him in Municipal Council Colony, Hisar Road, Sirsa. Grievance of the plaintiff/appellant is that although his co-employee Mani Ram, Driver was allotted a plot yet, he, despite being similarly situated was not allotted another plot and when his genuine request failed to gain any response, he filed the civil suit.

[10] Allotment of plots in Municipal Council Colony No.2, Sirsa was made by the Municipal Council, Sirsa in the year 1988 in which the plaintiff/appellant claimed that his co-employee namely Mani Ram was allotted a plot. However, as per the stand of the defendants/respondents, the requisite sanction for allotment of the plots in said Colony has not been granted by the Government till date. Be that as it may, once the plaintiff/appellant had accepted the plot as was allotted to him in the year 1972 without any demur or protest allegedly on the basis of assurance held out by the defendants/respondents to him as well as to his co-employee Mani Ram and subsequently, in the year 1988 a plot was allotted to Mani Ram, co-employee of the plaintiff/appellant and not to the plaintiff/appellant, then the grievance in respect thereto ought to have been agitated by the plaintiff/appellant before a Court of law within period of limitation. On query, learned counsel for the plaintiff/appellant concedes that no grievance in respect thereto was agitated by the plaintiff/appellant before a Court of law prior to the filing of the Civil Suit in the year 2006 out of which the

[11] Learned counsel for the plaintiff/appellant has also not been able to refer to any assurance if any given by the defendants/respondents to the plaintiff/appellant at the time of initial allotment of plot. The allotment of the plot was initially made to the plaintiff/appellant in the year 1972 which he accepted without any demur or protest. Alleged assurance to give another plot, stated to have been held out to him, has not been produced on the record, whereas the suit out of which the instant Regular Second Appeal arises was filed in November, 2006. Thus, on the face of it, the suit filed by the plaintiff/appellant is barred by limitation. It needs noticing here that the plaintiff/appellant retired from service in the year 2002 while the plot was allotted to him as per the scheme in the year 1972 and sale deed was executed and registered in his favour on 30.06.1984. No document has been produced on the record to show that after the allotment of the plot in the year 1972 or execution of the sale deed on 30.06.1984, the plaintiff/appellant moved any Court of law for allotment of the plot. As far as the grievance of the plaintiff/appellant is concerned, that his co-employee Mani Ram, Driver who was similarly situated was allotted another plot in the year 1988, therefore, he also ought to have been allotted another plot is of no avail, since the plaintiff/appellant has to stand on his own feet by establishing that he was entitled to the allotment of the plot under the Scheme as framed subsequently qua which allotment of plots were made in the year 1988. Accordingly, in the light of the position noted above, namely of the plot having been allotted to the plaintiff/appellant in the year 1972, sale deed having been executed in favour of the plaintiff/appellant in the year 1984, allotment of plot subsequently having been made by the defendants/respondents to other employees in Municipal Council Colony

plaintiff/appellant before a Court of law within the period of limitation, the civil suit filed by the plaintiff/appellant four years after his retirement, in November, 2006 is highly belated and hit by limitation. Accordingly, no ground whatsoever is made out for interfering with the well-reasoned judgment and decree passed by the Courts below.

[12] No substantial question of law much less question of law arises for consideration in this appeal. The instant Regular Second Appeal is bereft of merit and is, accordingly, dismissed.

12.04.2023

'Amit'

1. Whether Speaking/reasoned:

2. Whether reportable :

(B.S. WALIA)

JUDGE

Yes/No.

Yes/No.