

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

CM-6209-C-2023 in/and

RSA-2091-2013

Date of Decision : June 02, 2023

Bathinda Development Authority and another

.. Appellants

Versus

Khetu Ram and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Naresh Prabhakar, Advocate, for the applicant-appellants.

Mr. P.K.S. Phoolka, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-6209-C-2023

Present application has been filed for recalling the order dated 22.05.2023, by which, the present appeal was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. P.K.S. Phoolka, Advocate, accepts notice on behalf of respondent No.2. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 22.05.2023 is recalled and the appeal is restored to its original number and status.

RSA-2091-2013

1. In the present appeal, the challenge is to the judgment and decree of the lower Appellate Court dated 18.01.2012 by which, the suit filed by the respondents-plaintiffs seeking injunction qua their eviction without adopting due process of law, has been allowed.

2. Learned counsel for the appellants submits that the land in question was acquired by the appellants and even the compensation had already been paid hence, the injunction which has been granted the lower Appellate Court in favour of the respondents-plaintiffs so as to allow their suit, is bad. Learned counsel for the appellants further submits that though, a finding has been recorded that the respondents-plaintiffs are in possession of the land in question but merely that there was an electricity connection installed on the property in question and there exists a boundary wall, the same will not prove the possession of the respondents-plaintiffs especially when as per the report of the appellants, after acquiring the land in question, the possession was taken.

3. On being asked to point out as to what process was adopted while taking the possession of the land in question after acquiring of the said land, which has come on record. Learned counsel for the appellants submits that a report written by officials of the revenue department is on the record. Said report, without there being any corroborating offence, has been disbelieved by the courts below. No evidence on record has been brought to the notice of this Court to show as to how the possession was taken and when the same was taken and who were the witnesses of the said process.

4. Keeping in view the fact that liberty has been given to the appellants to seek possession in accordance with law, in the peculiar facts

and circumstances of the present case, especially when no perversity in the order passed by the lower Appellate Court has been pointed out to this Court, no interference is called for by this Court in the present appeal.

5. Dismissed.

June 02, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No