

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 6382 of 2018 (O&M)****Date of Decision: 12.10.2023**

Nuru

... Appellant(s)

Versus

Shiv Dayal and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Farukh Abdullah, Advocate
for the appellant(s).

Anil Kshetarpal, J.**CM-17945-C-2018**

1. For the reasons stated in the application, the same is allowed and delay of 36 days in refiling the appeal is condoned.

RSA-6382-2018

2. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

4. The plaintiff has filed a suit for the grant of decree of declaration that his father purchased the property from the authorities, therefore, he is the owner in possession thereof. On the other hand, the

defendants, while contesting the suit, submitted that the plaintiff's father was ordered to be evicted by the Assistant Collector Ist Grade on 24.05.1979 and the possession, in compliance thereof, was delivered on 11.05.1980. The application filed by the plaintiff's father for purchasing the land was ultimately dismissed by the authority on 26.08.1976 and the land was allotted to Shiv Dayal, but it was set aside by the Financial Commissioner.

5. Both the Courts below, on appreciation of the evidence, have found that the allotment of the land in favour of Raja Mohammad was finally set aside by the Financial Commissioner, Haryana. Subsequently, he was evicted from the land in dispute and the possession was delivered.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

(Anil Kshetarpal)
Judge

October 12, 2023

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No