

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

**RSA-2234 of 1988 (O&M)
Date of Order:18.03.2024**

Municipal Corporation, Jalandhar

.Appellant

Versus

Dina Nata (since deceased) through LRs and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Harsh Aggarwal, Advocate
for the appellant.**

**Mr. Gaurav Goyal, Advocate
for respondent no.1.**

**Mr. Kanav Singla, Advocate
for respondent nos.2 and 3.**

**Mr. Lupil Gupta, Advocate,
Ms. Khushi Suryavanshi, Advocate
Mr. Sumit Bhardwaj, Advocate
for Praduman Krishan Moudgill, Advocate
for respondent no.4**

ANIL KSHETARPAL, J

1. This is the defendant's regular second appeal against the judgment and decree passed by the First Appellate Court, which in turn has reversed the judgment and decree passed by the trial court.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.

3. In the beginning, the Municipal Corporation, Jalandhar, (the appellant) leased out the suit property to the plaintiff, namely Sh. Dina Nath. However, subsequently, he stopped paying the rent. The Municipal Corporation, Jalandhar, initiated proceedings against the plaintiff for his ejection under the Punjab Public Premises Act, which was allowed by the

Collector, Jalandhar. The correctness thereof was upheld in appeal by the Commissioner, Jalandhar. Thereafter, the plaintiff-Sh. Dina Nath filed a suit for grant of decree of declaration to the effect that he is the owner in possession of the property and the Municipal Corporation, Jalandhar, has no right to dispossess him. In substance, the plaintiff claims that the property is owned by the Rehabilitation Department of the State and he has been allotted the aforesaid suit property on 15.01.1982, for a total amount of Rs.1,09,167/-. He produced receipt evidencing payment of Rs.2,000/-.

4. The State of Punjab and the Tehsildar, Rehabilitation Department claims that the suit property vests in the Rehabilitation Department.

5. On the pleadings of the parties, the following issues were framed:-

“1. Whether the plaintiff is entitled to the declaration proved for on the grounds mentioned in the plaint?OPP

2. Whether this court has jurisdiction to try the present suit?OPP

3. Whether the suit in the present form is not maintainable?OPD

4. Whether the suit is bad for non-joinder of the necessary parties?OPD

5. Relief.”

6. Ultimately, the plaintiff's suit was dismissed. The plaintiff filed first appeal. The First Appellate Court has reversed the judgment and decree passed by the trial court.

7. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book along with the requisitioned record.

8. The learned counsel representing the appellant submits that the

plaintiff has not proved that he has paid the entire sale amount. He submits that the State of Punjab has filed an affidavit clarifying that the plaintiff has only deposited Rs.2,000/- and never paid any further amount. He further contends that the plaintiff could not deny the title of the Municipal Corporation and if he wants to deny, he has to first surrender the possession back to the Municipal Corporation.

9. Per contra, the learned counsel representing the respondent (plaintiff) contends that the Municipal Corporation, Jalandhar, is not the owner of the property and therefore, the First Appellate Court has correctly decreed his suit.

10. Sh. Lupil Gupta, Advocate, claims that the property has been gifted by an unregistered gift deed on 16.3.2015, by the plaintiff in favour of a Gurudwara Singh Sabha and therefore, this court should not interfere.

11. The learned counsel representing the State of Punjab submits that the plaintiff has not paid any amount after initial deposit of Rs.2,000/-.

12. It is evident that the First Appellate Court has misdirected while observing that the key question which requires adjudication as to whether the Municipal Corporation is the owner of the property or not?

13. This was not the issue involved in the present case. It is evident that the plaintiff was required to prove that he was owner in possession. However, the plaintiff has not led any evidence to prove that any conveyance deed was executed in his favour. He has also failed to prove that he has paid any further amount after deposit of initial amount of Rs.2,000/-

14. It may be noted here that the plaintiff does not dispute that he entered into possession of the property after taking the same on lease from

Municipal Corporation, Jalandhar. Section 116 of the Indian Evidence Act,

1872, estops the plaintiff from denying title of his landlord. If he wants to deny the title, he has to first surrender the possession back to the Municipal Corporation.

15. In this suit, the inter-se dispute between the Municipal Corporation, Jalandhar, on one hand and the State of Punjab on the other hand is not subject matter of dispute. There is no inter-se issue between two different defendants.

16. Keeping in view the aforesaid discussion, it is evident that the First Appellate Court has failed to properly appreciate the pivotal point which required adjudication. Similarly, the Gurudwara Singh Sabha claims property on the basis of unregistered gift deed which is not permissible. A gift deed of immovable property can only be executed only through registered document. In any case, the plaintiff has no title. Hence, he cannot transfer any title in favour of Gurudwara Singh Sabha.

17. Keeping in view the aforesaid discussion, the judgment and decree passed by the First Appellate Court is set aside and that of the trial court is restored.

18. The appeal stands allowed, accordingly.

19. All the pending miscellaneous applications, if any, are also disposed of.

March 18, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	:YES/NO
Whether reportable	:YES/NO