

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2402 of 1990 (O&M)

Date of Decision: 30.01.2024

Jagir Singh

... Appellant(s)

Versus

Ludhiana Improvement Trust, Ludhiana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. K.G.Chaudhary, Advocate
for the appellant(s).

Mr. Mahabir Singh Baath, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab and 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*.

2. In this regular second appeal, the plaintiff assails the correctness of the judgment and decree passed by the First Appellate Court, which, in turn, has reversed the judgment and decree passed by the trial Court. The plaintiff has filed a suit for the grant of decree of perpetual injunction claiming that he is the owner in possession of the land measuring 1 kanals and 6 marlas which is the part of a Scheme known as ‘Model Town

Extension, Part-II’. In substance, the grievance of the plaintiff is that though

as per the Scheme, he has to be given first priority in allotment of the plot as a local displaced person on account of the acquisition of his land by the government which was utilized by the Ludhiana Improvement Trust, however, despite several representations, however, the plot has not been allotted to him.

3. The defendant, while contesting the case, claims that the land of the plaintiff has been validly acquired and he did not deposit the application money for the allotment of the plot as a local displaced person under the Local Disposal Rules. The trial Court decreed the suit. However, the First Appellate Court found that the plaintiff has neither deposited an amount of ₹500/- nor has he ever produced any receipt to prove that fact. Moreover, all the plots have already been allotted in the Scheme.

4. On 24.01.2024, the following order was passed:-

“1. This appeal is pending for the last 34 years. In the year, 1991, an application for permission to lead the additional evidence was filed with the assertion that Sh. Chanan Singh, who is identically situated, has been allotted plot as a local displaced person, though he filed the application after the application was submitted by the appellant. The contents of the aforesaid application have not been disputed by the learned counsel representing the respondent as no reply has been filed.

2. The learned counsel representing the respondent prays for some time to file reply.

3. It has been noticed that on 17.04.2023, the hearing of the case was adjourned to 19.04.2023, on which day the Executive

Officer of the Improvement Trust was directed to be present along with the record. On 24.04.2023, the Executive Officer was not present, however, a new counsel on behalf of the respondent had entered into appearance and sought an adjournment which was granted. Thereafter, the case was listed on 27.04.2023, but was again adjourned on the request of the learned counsel representing the respondent. Today, once again the position is exactly the same.

4. *Keeping in view the aforesaid facts, the Chairman of the Improvement Trust, Ludhiana, is directed to remain present, in person, in the Court on the next date of hearing along with the record.*

5. *List, in the urgent list, on 30.01.2024.”*

5. Ultimately, reply to the application has been filed. It has been brought to the notice of the Court that the land of the appellant was acquired by a separate notification and the Land Acquisition Collector announced the award on 01.08.1975, whereas Chanan Singh's land situated in village Burara, was acquired vide a separate notification and the Land Acquisition Collector announced the award on 23.02.1979. It has specifically been stated that the land of Chanan Singh was not acquired with the land of the appellant.

6. The First Appellate Court, on analyzing the Rules, has found that the appellant was required to submit an application along with the application money. However, he submitted the application after a delay of

more than ten years.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the judgment and decree passed by the First Appellate Court. Hence, the present appeal is dismissed, accordingly.
8. The miscellaneous application(s) pending, if any, shall stand disposed of.

January 30, 2024
“DK”

(Anil Kshetarpal)
Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No