

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2543-1993 (O&M)

Date of decision: 11.03.2024

Mukhtiar Singh and others

....Appellants

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. R.K.Handa, Advocate for the appellants

Mr. Manoj Taya, Advocate for appellant no.10 and 11

Mr.J.S.Pannu, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. This is the plaintiffs' Regular Second Appeal against the judgment and decree passed by the First Appellate Court. The trial court granted limited injunction in favour of the plaintiffs to the effect that they will not be dispossessed except in due course of law. However, the First Appellate Court has reversed the aforesaid limited decree.

2. Sh. Manoj Taya, Advocate has submitted that appellant no.2 has transferred his rights in favour of Smt.Shakuntla Devi and Sh.Amrik Singh and he has filed an application for their impleadment.

3. Both the learned counsel representing the appellants have been heard.

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

5. Admittedly, the suit land was proposed to be acquired by the State Government in exercise of powers of eminent domain under the provisions of Land Acquisition Act, 1894 (hereinafter referred to as '1894 Act'). Notifications under Section 4 and 6 were issued on 06.09.1971 and 21.09.1971, respectively. The award under Section 11 of the 1894 Act was passed on 30.06.1972. The payment as per the award was deposited and withdrawn by the landowners. The land was acquired by the State Government for the purpose of establishing a brick kiln. The appellants (plaintiffs before the trial court) are the landowners, who have already received the compensation from the Government for acquisition of their land. However, they filed a suit for the grant of decree of permanent injunction claiming that they continue to be in possession of the property and have perfected their title by way of adverse possession. As already noticed, the trial court only granted limited relief.

6. Learned counsel representing the appellants submits that the land was acquired for establishing a brick kiln, which has lost its significance. He submits that the appellants are in possession of the property and their possession should be protected from forcible dispossession.

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. As per Section 11 of the 1894 Act on passing of the award by the Land Acquisition Collector, the land absolutely vests in the State and the landowners are left with no right, title or interest in the property

except compensation. Section 12 of the 1894 Act provides that such award shall be final once it is filed in the Land Acquisition Collector's office. Section 16 of the 1894 Act enables the Land Acquisition Collector to take possession of the land once it has been acquired. Section 16 is extracted as under:-

***"16. Power to take possession.**—When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon [vest absolutely in the [Government]], free from all encumbrances."*

9. In this case, there is no dispute that the land has in fact been validly acquired and the landowners have already received the compensation. Hence, the Land Acquisition Collector has the right to take over possession of the land which vests absolutely in the Government free from all encumbrances.

10. The appellants are at the most claiming to be unauthorized occupants. They are in fact encroachers upon the Government land. It has come on record that from the crop Haadi 1972 to Haadi 1979. The entire acquired land was reflected as Gair Mumkin brick kiln. Thereafter, some part of the land was made cultivable. However, the plaintiffs, being encroachers of the public land, cannot claim protection of law.

11. Keeping in view the aforesaid facts, no ground to interfere is made out.

12. Hence, dismissed.
13. All the pending miscellaneous applications, if any, are also
disposed of.

11.03.2024
rekha

(ANIL KSHETARPAL)
JUDGE

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