

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.2079 of 1992 (O&M)
Date of Decision: 14.03.2024

MUNICIPAL COMMITTEE, SAHDAURA, AMBALA & ANR
.....Appellants

Vs

KHEM CHAND
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Pritam Singh Saini, Advocate with
Mr. Lovejeet Poonia, Advocate and
for the appellants along with
Mr. Kahil, J.E. M.C. Sahdaura.

Mr. Gursimran Singh Madaan, Advocate and
Mr. Lalit Sharma, Advocate
for the respondent.

HARKESH MANUJA, J. (Oral)

[1]. By way of present appeal, challenge has been laid to the judgment and decree dated 07.04.1992 passed by the Addl. District Judge, Yamuna Nagar at Jagadhri whereby the judgment and decree dated 21.04.1989 passed by the Sub-Judge IInd Class, Jagadhri was reversed in favour of respondent-plaintiff by decreeing his suit for possession.

[2]. Briefly stating, the respondent/plaintiff filed a suit for possession regarding the property in question, claiming himself to be owner of the same having been inherited from his father Karam Chand. It was averred in the plaint that the appellants/defendants in anticipation of acquisition proceedings took possession of the suit property from the respondent/plaintiff for converting it as a municipal park, however, the steps taken towards acquisition were neither completed by passing of any award, nor the possession of the suit property was

ever returned to the respondent/plaintiff thereby compelling him to file the suit for possession.

[3]. In the detailed written statement filed on behalf of the appellants/defendants, it was claimed that possession of the land in question was handed over to the appellants/defendants in terms of Notification dated 06.10.1981 and 10.01.1984 issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (hereinafter to be referred as 'the 1894 Act') respectively and post delivery of possession, the appellants/defendants constructed a public park thereupon. It was also pleaded that the aforesaid notifications were followed by an award regarding the acquisition and, thus, the suit land vested with the appellant/defendants.

[4]. The Trial Court vide judgment and decree dated 21.04.1989 dismissed the suit filed at the instance of respondent/plaintiff while holding that even as per the admission made by the respondent/plaintiff though an award was passed by the appellants/defendants, however, neither he was informed about the same nor, he was ever paid the amount of compensation, thus having admitted the factum of passing of award, the respondent/plaintiff had the remedy to file a suit for recovery of compensation amount along with interest rather than claiming possession of the land in question.

[5]. Aggrieved thereof, the respondent/plaintiff filed first appeal, which came to be allowed vide judgment and decree dated 07.04.1992 passed by the Addl. District Judge, Yamuna Nagar at Jagadhri while holding that no evidence in the form of any copy of award passed regarding the land in question was ever produced by the appellants/defendants, thereby belying their stand of having acquired the suit property and the same having been vested in them in terms of Section 16 of the 1894 Act.

[6]. At the time of hearing of the present appeal on 16.02.2024, learned counsel for the appellants/defendants sought time to verify and trace the award, if any passed by the Land Acquisition Collector as regards the acquisition of land in question. The said order is reproduced hereunder:-

“In this appeal, the crucial issue is with respect to the existence of award passed by the Land Acquisition Collector in terms of the Land Acquisition Act, 1894, after the notifications under Section 4 and 6 of the Act were issued on 06.10.1981 and 11.01.1984. The respondent, in his evidence, has admitted that there was an award passed by the Land Acquisition Collector. However, the First Appellate Court held that no award has been placed on file.

The learned counsel representing the appellant prays for some time to verify and trace the award, if any, passed by the Land Acquisition Collector.

List on 04.03.2024, in the urgent list.”

[7]. Thereafter, learned counsel for the appellants/defendants sought two more opportunities to do the needful. However, today learned counsel has appeared along with Sh. Kahil, J.E. M.C. Sahdaura, Ambala and informs the Court that no such record pertaining to any award being passed in pursuance to Notifications dated 06.10.1981 and 11.01.1984 regarding the acquisition of land in question was traceable. No other point has been argued before this Court. The said fact itself compels this Court to draw an irresistible adverse inference against appellants-defendants that no award pertaining to the acquisition of land in question was ever passed by the Land Acquisition Collector at their instance and thereby, the land in question never vested in them in terms of Section 16 of the 1894 Act.

8. As per Section 300-A of the Constitution of India, no person can be deprived of his property save by authority of law. The Section 16 of 1894 Act and Section 300-A of the Constitution of India are reproduced hereunder:-

Section 16 of 1894 Act

“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.”

300-A of the Constitution of India

300-A. ***Persons not be to deprived of property save by authority of law.** No person shall be deprived of his property save by authority of law.”*

[9]. In the present case, after issuance of notifications under Sections 4 and 6 of the 1894 Act, the acquisition proceedings were thus never concluded followed by passing of an award in terms of Section 11 of the 1894 Act and, thus, the suit land vested with the appellants/defendants, who thus had no right to retain the possession of the property in question which was undisputedly owned by the respondent/plaintiff and as such the suit for possession filed by the respondent-plaintiff being its owner was rightly decreed.

[10]. Resultantly, in view of discussion made hereinabove, there being no illegality or perversity with the findings recorded by the First Appellant Court, the present appeal is hereby dismissed as no question of law much less substantial question of law is involved in this appeal.

[11]. All pending application(s), if any, shall stand disposed of.

March 14, 2024
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(HARKESH MANUJA)
JUDGE

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