

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****202****RSA-458-1995 (O&M)****Date of Decision : 28.10.2024**

Habib Khan (deceased) through LRs

....Appellants

VERSUS

Delhi Milk Scheme

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Salil Bali, Advocate for the appellants.

Ms. Geeta Singhwal, Advocate
Senior Panel Counsel for Union of India**ALKA SARIN, J. (Oral)**

1. Present appeal has been filed challenging the judgment and decree dated 28.10.1994 passed by the First Appellate Court whereby it was held that the plaintiff-appellant i.e. Habib Khan was in unauthorized possession of the suit property, and he could be dispossessed in due course of law.

2. The brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed a suit for permanent injunction claiming himself to being owner in possession of the suit land situated within the revenue estate of village Nakanpur, Tehsil Ferozepur Jhirka, District Gurugram fully described in para 1 of the plaint. On notice the suit was contested by the defendant-respondent raising preliminary objections. On merits it was the stand taken that the suit property stood acquired vide notification dated 31.07.1968 and that *Rapat Roznamcha* was also prepared and possession

was taken on 15.11.1968 (Ex.D1). It was further the case set up that the award dated 13.03.1970 was also passed and that the compensation stands paid to the plaintiff-appellant. The Trial Court decreed the suit restraining the defendant-respondent from interfering in the peaceful possession of the plaintiff-appellant over the suit property except in due course of law vide judgment and decree dated 03.06.1992. Aggrieved by the same, the defendant-respondent preferred an appeal and vide judgment and decree dated 28.10.1994 the same was partly allowed and it was held that the plaintiff-appellant was not owner of the suit land and that he was in unauthorized possession of the suit land and could be dispossessed in due course of law. Aggrieved by the same, the present regular second appeal has been preferred by the plaintiff-appellant.

3. Learned counsel for the plaintiff-appellant would contend that except for the *Rapat Roznamcha* all the other documents produced by the defendant-respondent were marked documents and hence the appeal ought to have been dismissed by the First Appellate Court.

4. *Per contra* learned counsel for the defendant-respondent has handed over a copy of the judgment passed by this Court in **RSA-698-2013** titled “**Bhagwan Dass & Ors. vs. Delhi Milk Scheme & Ors.**” wherein on similar facts the appeal was dismissed vide order dated 15.05.2018.

5. Heard.

6. In the present case the suit land was acquired on 31.07.1968 and the award was passed on 13.03.1970. Learned counsel for the defendant-respondent has laid much stress on the fact that even the compensation

stands paid and though the other documents are marked documents however the same can always be looked into and taken judicial note of. Learned counsel for the plaintiff-appellant is not in a position to deny the fact that Bhagwan Dass and the present plaintiff-appellant had filed similar suits and that the appeal filed by Bhagwan Dass being RSA-698-2013 stands dismissed by this Court vide order dated 15.05.2018.

7. In view of the findings returned by both the Courts that the suit property stood acquired by the defendant-respondent and also coupled with the fact that the *Rapat Roznamcha* entry was duly proved by the Patwari while stepping into the witness-box as DW1, no fault can be found with the judgment and decree passed by the First Appellate Court.

8. In view of the above, I do not find any merits in the present appeal no question of law much less substantial question of law arises in the present case. The appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

28.10.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO