



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

**RSA-873-2002**

**Reserved on: 17.07.2024**

**Pronounced on: 15.10.2024**

**Shri Ram Sewa Samiti, Fatehabad**

**....Appellant**

**Versus**

**St. Soldier International Convent Educational Society, Fatehabad & Others**

**....Respondents**

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI  
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

**Present: Mr. R. Kartikeya, Advocate for the appellant.**

**Mr. Ramesh Hooda, Advocate for respondent No.1.**

**Mr. Amit Jain, Senior Advocate with  
Mr. Chetan Slathia, Advocate for respondent No.2.**

**Mr. Ankur Mittal, Advocate with Ms. Kushaldeep Kaur, Advocate  
and Ms. Saanvi Singla, Advocate for the respondent-HUDA.**

**VIKRAM AGGARWAL, J.**

1. This is plaintiff's second appeal against the judgment and decree dated 27.05.1999 passed by the Court of Civil Judge (Junior Division), Fatehabad vide which the suit filed by the appellant-plaintiff for declaration and injunction was dismissed and the judgment dated 02.02.2002 passed by the Court of Additional District Judge, Fatehabad vide which the appeal against the said judgment and decree was dismissed.

2. The appellant-plaintiff instituted a suit for declaration praying for setting aside the order of allotment of a plot measuring 1.5 acres of land situated in Sector R-I-A, Model Town, Fatehabad on 99 years lease to respondent-defendant No.1 for setting up a school. A direction was also sought to respondent-defendant No.3 to allot the said site to the appellant-plaintiff. It was averred that an advertisement had been issued in the Tribune on 14.02.1988 laying down

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conditions for allotment of lease of the said site for a primary school and applications had been invited. The appellant-plaintiff as also respondents-defendants No.1 and 2 applied for the same. Ultimately, on 02.04.1992, the said site was allotted to respondent-defendant No.1. It was the case of the appellant-plaintiff that respondent-defendant No.1 was not a registered society on the date of the advertisement i.e. 14.02.1988 and was got registered only on 29.02.1988 which was the last day fixed for submitting the application. It was also averred that the case of respondent-defendant No.1 had not been recommended by the Deputy Commissioner, Hisar for allotment of a primary school which was a pre-condition. It was further averred that the security money of Rs.2,500/- was not deposited. It was further averred that respondent-defendant No.1/ Society was practically not working and was a society on papers only nor was the school of respondent-defendant No.1 recognized or affiliated. It was averred that the case of the appellant-plaintiff was more meritorious and was on a strong footing but the same was not considered by respondent No.3.

3. The suit was opposed by the respondents-defendants. The basic stand which was taken was that the allotment had been made in accordance with law. The school of respondent-defendant No.1 was a recognized institution at the time when it applied for allotment. Certain preliminary objections with regard to maintainability, jurisdiction, locus standi, cause of action and limitation were also raised.

4. Respondent-defendant No.2 supported the case of the appellant-plaintiff and averred that the allotment in favour of respondent-defendant No.1 was illegal and arbitrary.



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5. Respondent-defendant No.3 supported the allotment and averred that the same had been made in accordance with law as per the guidelines regarding allotment of land to educational societies after duly inviting applications on 14.02.1988 through various newspapers. The selection committee recommended the name of respondent-defendant No.1 which was duly approved by Chief Administrator, HUDA and even the possession had been handed over to respondent-defendant No.1 on 01.02.1993.

6. From the pleadings of the parties, following issues were framed:-

- “1. Whether the allotment order of the Suit land issued by defendant No.3 in favour of defendant No.1 is illegal, against facts, arbitrary, null and void and is liable to be set aside on the grounds mentioned in the plaint, as alleged? OPP*
- 2. If issue no.1 is proved, whether the plaintiff is entitled for the injunction, as prayed for? OPP*
- 2A. Whether the defendant No.2 has got superior right to the plaintiff for allotment of the plot in dispute than the plaintiff and defendant No.2? OPD (2)*
- 3. Whether the suit is not maintainable in the present form? OPD*
- 4. Whether the Civil Court has no jurisdiction to try and entertain the present suit? OPD*
- 5. Whether the suit is barred by limitation? OPD*
- 6. Whether the plaintiff has no cause of action to file the present suit? OPD*
- 7. Whether the plaintiff has no locus-standi to file the present suit? OPD*
- 8. Relief.”*

7. Thereafter, parties led their respective evidence. The trial Court dismissed the suit filed by the appellant-plaintiff and the appeal filed against the

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said judgment and decree was also dismissed leading to the filing of this second appeal.

8. Learned counsel for the parties were heard.

9. It was strenuously urged by learned counsel for the appellant that the Courts below had erred in dismissing the suit filed by the appellant-plaintiff. Reference was made to the judgments passed by the Courts below as also the evidence led on record. It was submitted that in view of the evidence led by the appellant-plaintiff and accordingly, the appeal deserves to be allowed.

10. Learned Senior counsel representing respondent-defendant No.2 supported the argument addressed by learned counsel for the appellant-plaintiff.

11. Learned counsel representing respondents No.1 and 3 submitted that there is no illegality in the judgments rendered by the Courts below and that the same deserve to be upheld.

12. Having heard learned counsel for the parties, this Court is of the considered opinion that there is no merit in the instant appeal.

13. On 13.01.2003, the present appeal was ordered to be heard alongwith ***RSA No.205 of 2000*** and ***CWP No.10150 of 1993***. Both ***RSA No.205 of 2000*** and ***CWP No.10150 of 1993*** have been dismissed today vide judgments of even date.

14. Reverting to the case in hand, the Courts below duly considered the evidence led on the record of the case and non-suited the appellants-plaintiffs. The advertisement is on record as Ex.P-14. By way of the said advertisement, sites for a primary school were advertised for allotment. After following the due process, the Allotment Committee held its meeting on 14.01.1992. The minutes are on record as Ex.P-51. The guidelines issued by HUDA were duly considered the Committee. It is not disputed that respondent-defendant No.1 was registered as a

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society on 29.02.1988 which is evident from the certificate DW-5/3. The last date of submission of applications, as per the advertisement Ex.P-14 was 29.02.1988 meaning thereby that on the date of submission of the application, respondent-defendant No.1 was a registered society. The argument that it was not a registered society on the date of issuance of the advertisement is devoid of merit because the status of the institution is to be seen on the date of submission of the application and not on the date of issuance of the advertisement.

15. As regards, the question of recognition of the school, the guidelines dated 06.06.1991 which were brought on record as Ex.DW-2/2 and DW-4/B would be relevant. These guidelines were duly incorporated by the Allotment Committee in the proceedings of its meeting held on 14.01.1992. The guidelines do not provide that the school site can only be allotted to a recognized school. There was a condition which stated that the school would be recognized by the Government/CBSE/Haryana Education Board in case of application for a Higher Secondary School. This condition would not be applicable because the site was for a primary school and, therefore, the question of recognition would not arise. Still further, Ex. DW-5/5 to DW-5/7 show that the school was recognized from 1988-1992 and applications were invited on 14.02.1988. It was recommended for allotment on 14.01.1992 and, therefore, at the time of allotment, it was duly recognized.

16. Further, the application dated 27.02.1988 Ex.P-9 shows that the allotment was recommended by the Sub Divisional Magistrate, Fatehabad and was countersigned by the Deputy Commissioner, Hisar meaning thereby that the Deputy Commissioner, Hisar had rectified the recommendation made by the Sub Divisional Magistrate. It also came on record that the school of respondent-



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defendant No.1 was being run from a rented building, which also weighed with the Allotment Committee and the site was allotted to respondent-defendant No.1. Under the circumstances, no legal infirmity has been found in the allotment of the suit site in favour of respondent-defendant No.1 and by no stretch of imagination can it be said that the appellant-plaintiff or respondent-defendant No.2 had got a superior right of allotment over the appellant-plaintiff.

17. It would be relevant to mention here that under issue No.4, both the trial Court and the First Appellate Court had held that the Civil Courts did not have any jurisdiction to entertain the suit in view of the provisions of Section 50 of the Haryana Urban Development Authority Act, 1977 (for short '1977 Act') which lays down as under:-

**"50. Finality of orders and bar of jurisdiction of Civil Courts –**

**(1) Save as otherwise expressly provided in the Act, every order passed or direction issued by the State Government or order passed or notice issued by the Authority or its officer under this Act shall be final and shall not be questioned in any suit or other legal proceedings.**

**(2) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act or the Rules or Regulations made thereunder."**

Both the Courts came to the conclusion that the Civil Court would have jurisdiction if the authority concerned had acted without jurisdiction or had violated the principles of natural justice. It was found that the selection committee had recommended the name of respondent-defendant No.1 after following the due



procedure and duly having the power to allot the same. Before this Court also, learned counsel has not been able to show as to how the Civil Court would have jurisdiction. It has not been even prima facie proved that principles of natural justice had been violated by the respondent-defendant No.3 or it had exceeded the jurisdiction vested in it. As has been observed above, it is not disputed that respondent-defendant No.3 was duly competent to deal with the issue of the allotment of the site in question. Under the circumstances, the findings on issue No.4 are also upheld and it is held that the jurisdiction of the Civil Court was barred in view of the provisions of Section 50 of the 1977 Act.

In view of the aforementioned facts and circumstances, we do not find any merit in the instant appeal and the same is accordingly dismissed.

(ARUN PALLI)  
JUDGE

(VIKRAM AGGARWAL)  
JUDGE

**Pronounced on: 15.10.2024**  
*Prince Chawla*

|                                    |                |
|------------------------------------|----------------|
| <i>Whether speaking/reasoned :</i> | <i>Yes/No.</i> |
| <i>Whether reportable :</i>        | <i>Yes/No.</i> |