



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

RSA-205-2000

Reserved on: 17.07.2024

Pronounced on: 15.10.2024

Hari Chand and Others

....Appellants

Versus

St. Soldier International Convent School, Fatehabad and Another

....Respondents

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

Present: Mr. Amit Jain, Senior Advocate with
Mr. Chetan Slathia, Advocate for the appellants.

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

Mr. Ankur Mittal, Advocate with Ms. Kushaldeep Kaur, Advocate
and Ms. Saanvi Singla, Advocate for respondent No.2.

VIKRAM AGGARWAL, J.

1. This is the second appeal filed by the appellants-plaintiffs against the judgment and decree dated 20.11.1996 passed by the Court of Civil Judge (Junior Division), Fatehabad vide which the suit for permanent injunction filed by the appellants-plaintiffs was dismissed and the judgment dated 07.09.1999 passed by the Court of Additional District Judge, Hisar vide which the appeal filed against the said judgment and decree was dismissed.

2. The appellants-plaintiffs claim to be residents of Model Town, Fatehabad. They instituted a suit for permanent injunction pleading that two acres of land shown by letters ABCD in the site plan surrounded by residential houses had been left by the Colonization Department for a park in the year 1955 when Model Town, Fatehabad came into existence. Plots were carved out by the Colonization Department after which respondent-defendant No.2/HUDA had come in. It was averred that the park was being used by the residents of the area,



RSA-205-2000

-2-

whose houses surrounded the park, for various social functions like marriages etc. and also as a playground for children. However, respondent-defendant No.2, in collusion with respondent-defendant No.1 had allotted the said land to respondent-defendant No.1 for establishing a school and respondent-defendant No.1 had collected construction material at the spot intending to raise construction. Accordingly, the suit was filed.

3. The suit was contested by the respondents-defendants. Separate written statements were filed. The stand taken was that the land in question had been reserved for an educational institution and had been allotted to respondent-defendant No.1 vide communication dated 20.01.1992 and even possession had been taken by respondent-defendant No.1. It was denied that the suit land had ever been used as a park. It was further pleaded that applications for educational institutions had been invited through the due process of publication in newspapers and the allotment was made after adopting the due procedure.

4. Replication was filed denying the averments made in the written statement and reiterating those made in the plaint. From the pleadings of the parties, the following issues were framed by the trial Court after which evidence was led by both sides:-

“1. Whether the plaintiffs are entitled to the relief of injunction on the grounds mentioned in the plaintiff? OPP

2. Whether the plaintiffs have no locus standi to file the present suit? OPD

3. Whether the suit is not maintainable in the present format? OPD

4. Whether the suit is not properly valued for the purpose of court fees and jurisdiction? OPD



RSA-205-2000

-3-

- 5. Whether the plaintiffs have no cause of action against the defendant? OPD*
- 6. Whether the defendants are entitled to special costs u/s 35-A of CPC? OPD*
- 7. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD*
- 8. Whether the civil court has no jurisdiction to try the present suit? OPD*
- 9. Relief.”*

5. After hearing both sides, it was found by the trial Court that the suit land had never been reserved for a park and in fact it had been reserved for a school. It was also observed that due process was followed in issuing an advertisement and then allotment of the site to respondent-defendant No.1. The trial Court observed that the witnesses of the appellants-plaintiffs had not been able to prove that the suit land had been reserved for a park and in fact admitted that no extra premium had been paid by them for having purchased plots facing a park. Learned trial Court further found that the allotment itself had not been challenged in the suit. Accordingly, the suit was dismissed. In appeal also, a similar view was taken and the appeal was dismissed.

6. Learned counsel for the parties were heard.

7. It was submitted by learned Senior counsel representing the appellants-plaintiffs submitted that the suit land had been reserved for a park and was being used as such by the residents of the area and the same had illegally been allotted to respondent-defendant No.1. However, learned Senior counsel could not put forth any valid argument to convince this Court as to how the findings recorded by the Courts below were erroneous.



RSA-205-2000

-4-

8. Per contra, learned counsel representing respondent-defendant No.1 submitted that there is no illegality in the judgments passed by the Courts below.

9. Having heard learned counsel for the parties and having perused the record, this Court finds that there is no illegality in the judgments passed by the Courts below.

10. The appellants-plaintiffs failed to prove that the suit land had been reserved for a park. In fact, the witnesses of the appellants-plaintiffs themselves admitted that they had not given any extra price for having purchased plot/s opposite to the park nor had the neighbours given any such extra price. PW-2 Chandgi Ram duly admitted this fact. Further Sh. Sher Baaj, who appeared as PW-3 submitted that they had not challenged the allotment of the site to the school in the suit. On the other hand, Raj Pal Lamba who appeared as DW-2 on behalf of respondent-defendant No.2 produced site plan Ex.D-29 which showed that the suit land had been reserved for a school site. It was also proved on record that due process was followed in issuing an advertisement and then allotting the site to respondent-defendant No.1. Documents Ex.D-30 to D-32 were produced on record in this regard. It also came on record that after allotment of the school site, physical possession had also been handed over to respondent-defendant No.1 on 20.01.1993. The appellants-plaintiffs, therefore, miserably failed to prove their case and were accordingly rightly non-suited by the Courts below. Before this Court also, the appellants-plaintiffs have not been able to even *prima facie* prove that the judgments passed by the Courts below are illegal. It would also be relevant to mention here that vide order dated 21.08.2000, the present appeal had been ordered to be heard alongwith ***CWP No.10150 of 1993*** titled as '***Maharaja***

Aggarsain Educational Society, Fatehabad Vs. Haryana Urban Development



RSA-205-2000

-5-

Authority, Panchkula and Others'. In the said writ petition, allotment of the land in question to respondent-defendant No.1 herein had been challenged by the Maharaja Aggarsain Educational Society, Fatehabad and the same has also been dismissed by an order of even date.

In view of the aforementioned facts and circumstances, we do not find any merit in the regular second 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>