



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-463-2000 (O&M)

Date of Decision : 14.08.2024

Nagar Palika Sunam ... Appellant(s)

Versus

Gurcharan Singh and Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Kavita Arora, Advocate for the appellant.

Mr. Sanjeev Manrai, Senior Advocate with
Mr. Rohit Bhardwaj, Advocate for respondent No.4.

ALKA SARIN, J. (Oral)

1. Learned counsel for the appellant states that respondent Nos.1 to 3 are not necessary parties and respondent No.4 is the only contesting respondent.
2. The present regular second appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 22.04.1998 passed by the Trial Court dismissing the suit filed by the plaintiff-appellant as well as the judgment and decree dated 18.08.1999 passed by the First Appellate Court dismissing the appeal.
3. Brief facts relevant to the present *lis* are that the plaintiff-appellant i.e. Nagar Palika, Sunam filed the present suit for declaration to the effect that 1 kanal of land comprising in Khasra No.714//1/1 (1-0) was wholly owned by it and that the order passed by the Additional Director

Consolidation, Punjab, Chandigarh on 31.03.1983 was illegal, null and void and the subsequent mutation No.7247/C was also liable to be set aside and also sought a declaration that the sale deed executed by Gurdial Singh in favour of the defendant-respondents dated 24.09.1987 and mutation sanctioned in their favour on the basis of the said sale deed was also null and void. It was the case set up by the plaintiff-appellant that on 02.08.1976 a notification (Ex.P1) was issued by the Punjab Government vide which the municipal limits of Sunam were extended and previously the suit land as well as some other land which was owned by the Gram Panchayat Moranwali came under the control of the plaintiff-appellant as the same was transferred in its favour vide the said notification. It was further averred that since the land was situated in the center of the city, therefore, it was under the possession of the municipality even earlier. It was further averred in the plaint that on the basis of the said notification, mutation of the land including the suit land was also sanctioned whereby the plaintiff-appellant was shown to have become the owner of the same and the Gram Panchayat Moranwali was divested of its ownership. Reference was also made to a writ petition filed by the Gram Panchayat, Moranwali challenging the notification dated 02.08.1976 (Ex.P1) which was dismissed by this Court. It was further averred that Gurdial Singh son of Amar Singh in connivance with the Consolidation Officer had got issued the impugned order dated 31.03.1983 in his favour whereby the ownership of the suit land was transferred in his name and the mutation was also sanctioned. Hence, the present suit. The defendant-respondents appeared and filed their written

statement. It was averred that the property had been sold in favour of Gurudwara Sahib, Koko Majri (Gobindpura) for a valuable consideration and that the order passed by the Additional Director Consolidation, Punjab, Chandigarh dated 31.03.1983 was a valid order. Replication was not filed.

4. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the order dated 31.3.1983 rendered by Additional Director (Consolidation), Punjab, Chandigarh more fully described in the cause title of the plaint, is illegal, null and void and is liable to be set aside ? OPP
2. Whether the sale deed, executed by Gurdial Singh, in respect of suit land, in favour of defendants, dated 24.9.87 and resultant mutation No.7687/C are illegal, null and void and are liable to be set aside ? OPP
3. Whether the plaintiff has been in possession of the suit land as owner, thereof ? OPP
4. Whether the suit is within limitation ? OPP
5. Whether the suit is bad for non-joinder and mis-joinder of necessary parties ? OPD
6. Whether the plaintiff is estopped by its own act and conduct from filing the instant suit ? OPD
7. Whether the plaintiff has no locus standi and cause of action to file the instant suit ? OPD
8. Whether the plaintiff is entitled for declaration and injunction, as prayed ? OPP
9. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 22.04.1998. Aggrieved by the same, an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate

Court vide judgment and decree dated 18.08.1999. Hence, the present regular second appeal.

6. Learned counsel for the plaintiff-appellant would contend that vide the notification dated 02.08.1976 (Ex.P1) the suit land was transferred in favour of the plaintiff-appellant and that a challenge was laid to the said notification by the Gram Panchayat by filing a writ petition which was dismissed by this Court and hence the order passed by the Additional Director Consolidation, Punjab, Chandigarh dated 31.03.1983 was erroneous.

7. *Per contra* the learned senior counsel appearing for defendant-respondent No.4 has contended that the First Appellate Court after a detailed discussion has categorically held that the notification dated 02.08.1976 (Ex.P1) did not even refer to Khasra No.714//1/1 (1-0). It is further the contention of the learned senior counsel that there is not an iota of evidence on the record to tally the killa numbers mentioned in the notification with Khasra No.714//1/1 (1-0).

8. I have heard the learned counsel for the parties.

9. Notification dated 02.08.1976 (Ex.P1), which was also reproduced in the judgment of the First Appellate Court, reads as under :

“NORTH TO EAST : Started from Railway Choa Bridge Musttial No.204, 203, 202 and 201/2, at a point of in front of Mile Stone No.2 Sunam Patiala Road. This will include well Bawa Bhagtaa Nand I.T.I and well Shri Chand Wala.

EAST TO SOUTH : From the point of Northern corner of Musttial No.201/2 to Kila No.19,22 and Musttial No.238, Kila No.2,9,12,19 and 22; thence Musttial No.252, 287, 300, 335 and 347 till it meets the road to village Jawandian.

SOUTH TO WEST : From Kila No.23 of Musttial No.347 to a point of Musttial No.335, Southern corner of Kila No.22, Musttial No.334, 348, 350 and 351 leaving college boundary and than Musttial No.352, 359, 354 and Kila No.22 of Musttial No. 355.

WEST TO NORTH : Along with the Choa. Nala till it meets link Road Longowal a Musttial No.232 Bhatinda Road Northern side of Bathinda road to Musttial No.209, 208, 207, 205 till it meets the point of start.”

10. A perusal of the said notification reveals that the same has referred to killa numbers and khasra No.714//1/1 (1-0) is not mentioned in the said notification. The learned counsel for the plaintiff-appellant states that no khasra numbers are mentioned, however, the said Khasra No.714//1/1 was included in the killa numbers as mentioned in the notification. A perusal of the record reveals that there is not an iota of evidence to show that killa numbers mentioned in the notification covered Khasra No.714//1/1. As noticed earlier, the khasra number itself is not mentioned in the notification. In the absence of Khasra No.714//1/1 being mentioned in the notification and in the absence of any evidence to show

that the killa numbers mentioned in the notification covered the said Khasra No.714//1/1, no fault can be found with the judgments and decrees passed by both the Courts. No other point was argued.

11. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

14.08.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

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