

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**RSA-2994-2016 (O & M)
Reserved on: 15.01.2024
Pronounced on: 31.01.2024**

ALKA JINDAL

.....Appellant

Versus

**PUNJAB SMALL INDUSTRIES AND EXPORT CORPORATION
LIMITED PUNJAB AND ANR.Respondents**

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE HARSH BUNGER**

**Argued by: Mr. Amit Jain, Senior Advocate with
Mr. Chetan Slathia, Advocate
for the appellant.**

Mr. Maninder Singh, DAG, Punjab.

**Mr. Pankaj Gupta, Advocate
for the respondent – PSIEC.**

SURESHWAR THAKUR, J.

CM-8004-C-2016

1. Considering the valid, and, good reasons, as meted in the application, explaining the apposite delay of 52 days, therefore, the application is allowed.

2. Delay of 52 days in re-filing of the regular second appeal, is condoned.

Main Case

3. In civil suit no. 189 of 25.08.1998, a declining decree was made by the learned Civil Judge concerned, on 25.04.2012, vis-a-vis the relief claimed in the said suit, inasmuch as, for a decree of mandatory injunction being made directing the defendants to allot to

the plaintiff a plot No. 73, bearing Khasra No. 411/7/1, Khata No. 309/336, as per jamabandi for the year 1971-72, situated at Friends Market, Dhandari Kalan, Focal Point, Phase-V, Ludhiana.

4. The said declining decree became assailed by the appellant-Alka Jindal, before the learned First Appellate Court concerned, but the said appeal became also dismissed, through an order made thereons, on 25.09.2015.

5. However, an RSA bearing No. 2994 of 2016 has been instituted before this Court, against the above concurrent verdicts of dismissal, thus made by both the learned Courts below.

6. Bearing in mind, the above reliefs reared in the civil suit, whereons, concurrent verdicts of dismissal were made respectively by the learned Civil Judge concerned, and also by the learned First Appellate Court concerned, thus being evidently common to the ones, as reared in the connected writ petition(s) i.e. ***CWP-204-2003 and connected cases.***

7. Therefore, the denial of the said reliefs to the petitioner-appellant one Alka Jindal by both the learned Civil Courts concerned, rather is valid, as it is but manifestative from the relevant records, that the possession, if any, assumed by the present petitioner-appellant concerned, over the relevant suit lands, was through an agreement to sell dated 02.04.1974, which is the date subsequent, to the issuance of a notification under Section 4 of the Land Acquisition Act, 1894, at stage whereof, rather there was a complete lack of vestment of right, title and interest in the alienor concerned, to make a lawful agreement to sell.

Resultantly, obviously, therebys the said possession of the petitioner-

any legal leverage can be drawn from a flawed or defectively made agreement to sell.

8. Consequently, and impliedly, it appears that a mis-founded plea for retention of possession of the acquired lands, became raised in the civil suit, by the plaintiff one Alka Jindal. Apparently also it impliedly appears, that for forestalling the furthering of the apposite public purpose, she claimed the rendition of a decree of permanent prohibitory injunction, for thus restraining the respondents, from assuming physical possession over the acquired lands, but reiteratedly only for frustrating the public purpose, thereby but obviously the said relief was to be declined to the plaintiff, as aptly done, through verdicts of dismissal being made on the apposite civil suit, thus by the learned Courts below.

9. The relief for mandatory injunction, thus for enforcing the relevant resolution (item no. 48) and the policy for allotment(s), even qua the plaintiff therein, and which became founded, upon, therebys rather the plaintiff being similarly treated with the other allottees, also appears to have been validly rejected by the concurrently made impugned verdicts.

10. The grounds of appeal constituted in the instant RSA, are but similar to the grounds, which were also raised by the petitioner, in her reply to the eviction petition, as filed by the respondent-Corporation, before the authorities contemplated under Sections 5 and 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, and, also are but similar to the grounds raised in the connected writ petition(s) **CWP-204-2003 and connected cases,**

even date.

11. In case, this Court assigns the espoused decrees to the appellant in the instant RSA, thereby this Court would be derogating from the solemn principle of law, that possession assumed, over the suit lands for reasons (supra), thus through a defective or flawed agreement to sell, rather becoming permitted to be retained by one Alka Jindal, besides it would tantamount to this Court, thereby frustrating the furtherance of the public purpose, for which the petition lands became acquired.

12. Even the petitioner's-appellant claim for parity, with the other purportedly similarly situated allottees, is a mis founded ground, thus for all the reasons which have been stated above, and, in the connected writ petitions *CWP-204-2003 and connected cases*.

FINAL ORDER BY THIS COURT.

13. In consequence, there is no merit in the instant regular second appeal and, with the above observations, the same is dismissed. The impugned concurrent dismissal decrees passed by the Courts below, in the relevant suit(s) are maintained and affirmed.

14. No order as to costs.

15. Since the main cases itself have been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(HARSH BUNGER)
JUDGE

31.01.2024

kavneet singh