



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.693 of 2024 (O&M)

Date of Decision:03.02.2025

Ranjit Kaur and others

.....Appellants

Vs.

Municipal Council, Kotkapura

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Surinder Garg, Advocate
for the appellants.

DEEPAK GUPTA, J.

Suit for declaration with consequential relief of permanent injunction filed by the plaintiffs (*appellants herein*) was dismissed by the trial Court on 10.01.2023. Appeal filed by the plaintiffs has been dismissed by the First Appellate Court of learned District Judge, Faridkot on 19.01.2024, thus, affirming the judgment of the trial Court. Against these concurrent findings, the plaintiffs- appellants have approached this Court by way of the present Regular Second Appeal.

2. According to plaintiffs, they are in possession of the disputed land measuring 807 sq. yards, on which they are running a Saw Mill in the name and style of *M/s Guru Nanak Saw Mill* for the last 40 years. Defendant – Municipal Council, Kotkapura (*now respondent*) had initiated proceedings under the provisions of Punjab Public Premises Act, 1973 against the plaintiffs for getting the possession of the site, which was dismissed by the Collector, Faridkot on 30.01.2003. However, the appeal filed by the defendant was accepted by the Deputy Commissioner vide



order dated 25.02.2004 and plaintiffs were directed to vacate the premises.

It is contended by the plaintiffs- appellants that the said order has not been executed till date. Plaintiffs had filed a suit for permanent injunction to restrain the defendants from dispossessing them (plaintiffs) from the suit land, which was dismissed by the trial Court on 16.08.2017. Appeal filed by them was dismissed by the First Appellate Court on 21.05.2018. It is alleged that on 28.03.2018, defendant initiated proceedings against the plaintiffs before Collector, Sub Division, Kotkapura under Section 5 of the Punjab Public Premises Act for getting the possession of the land on the basis of order dated 25.02.2004 of the Deputy Commissioner, Faridkot. Plaintiffs filed objections therein but the same were dismissed. Defendant again sent a notice dated 03.06.2019, which the plaintiffs allege to be null, illegal and void.

3. Defendants contested the suit. Necessary issues were framed. Evidence of the parties was taken on record and then ultimately trial Court dismissed the suit on 10.01.2023, which order has been affirmed by the Appellate Court as noted earlier.

4. The sole contention raised by learned counsel for the appellants is that order dated 25.02.2004 passed by the Deputy Commissioner, could not have been implemented after more than 12 years. Reliance is placed upon ***Diwan Singh Vs. Om Parkash and others, 1997(2) PLJ 100***. In that case, validity of an order dated 13.03.1996 passed by the Executing Court was under challenge. The decree had been passed by the Civil Court on 18.05.1982 and appeal by the First Appellate Court was



dismissed on 11.09.1982. RSA was dismissed by the High Court on 10.08.1983 and then execution was filed on 24.12.1994. It was in these facts and circumstances, that Court had observed that execution of the decree was covered by Article 136 of the Constitution providing a period of 12 years for execution of the decree and since the decree passed on 18.05.1982 was sought to be executed on 24.12.1994 and, there was no stay order by an Appellate Court, therefore, the decree had become inexecutable after 12 years.

5. Similar contention had been raised by the appellants before the First Appellate Court by relying upon ***Diwan Singh's case (supra)***. The First Appellate Court has observed as under:-

“10. This Court has no hesitation to conclude that law discussed by the Hon’ble High Court in case of ***Diwan Chand (supra)*** would not be applicable to the circumstances of this case because here the order dated 25.2.2004 is not a civil court decree which is to be executed by the Civil Executing Court. Article 136 of the Limitation Act comes into play only where execution of Civil Court decree is sought for which period of 12 years is provided. In this case order dated 25.2.2004 was passed by the Deputy Commissioner exercising its powers under the Punjab Public Premises Act. Moreover, no appeal as such was filed against the order dated 25.2.2004. It were M/s Amrit Lal Naresh Kumar and another including Mahal Singh, predecessor of plaintiffs, who filed suit for declaration challenging these proceedings, which suit was dismissed on 7.9.2010. It were the same parties who filed civil appeal against the judgment and decree dated 7.9.2010, which was dismissed as withdrawn



on 5.2.2014. Again it were Ranjit Kaur wife of Mahal Singh and others who filed suit for permanent injunction relating to the same property which was dismissed on 16.8.2017. They filed appeal against the judgment and decree dated 16.8.2017 which was dismissed on 21.5.2018. Considering all the circumstances it cannot be said that the order dated 25.2.2004 was a Civil Court decree which could be executed only by the Court of law and that too within prescribed period of limitation. The order has been passed by the competent authority under the Punjab Public Promises Act. The property vests in Municipal Council. Municipal Council has every right to proceed according to law for taking possession of the property on the basis of order passed by the competent authority which order has not been set aside by any superior competent authority.”

6. It is evident from the above-said observations made by the First Appellate Court that it is the order of the competent authority i.e. Deputy Commissioner, Faridkot which is being sought to be implemented. No doubt that there was lapse of more than 12 years, when the order is sought to be implemented but Article 136 of the Limitation Act is not applicable as no decree of any Civil Court was passed.

7. Apart from above, it has been observed by the Appellate Court that predecessors of the plaintiffs had earlier filed a suit for declaration assailing the above-said proceedings but the suit was dismissed on 07.09.2010 and the appeal was dismissed on 05.02.2014. Another suit for permanent injunction regarding the same property filed by the plaintiffs was dismissed on 16.08.2017 and the appeal was dismissed on 21.05.2018.



8. In view of all the above facts and circumstances, the Courts below have not committed any error in holding that the order passed by the competent authority under Punjab Public Premises Act is liable to be implemented.

9. This Court does not find any ground so as to interfere in the well-reasoned findings of facts, as recorded by the Courts below. No illegality or perversity in the impugned judgments could be pointed out by counsel for the appellants. As such, holding the present appeal to be devoid of any merit, the same is dismissed.

February 03, 2025

(DEEPAK GUPTA)

Renu

JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No