

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

RSA-3731-1998 (O&M)

Date of decision: 07.02.2025

RAGHUNATH SINGH & ORS.

..Appellants

Versus

UNION OF INDIA & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Aggarwal, Advocate
Mr. Rohit Duggal, Advocate
for the appellants.

Ms. Geeta Singhwal, Sr. Panel Counsel
for respondent No.1-Union of India.

ANIL KSHETARPAL, J(Oral)

I. Brief facts:-

1. This regular second appeal has been filed by defendant No.4 to 10 against the findings of fact arrived at by the First Appellate Court, which in turn has reversed the judgment and decree by the trial Court.

2. In substance, the dispute in the present case is with regard to entitlement of compensation of 500 square yards plot. The plaintiff (respondent herein) claims that he being non-proprietor of the village had constructed the house somewhere in the year 1940s and he has been in continuous possession of the same. It is admitted position that the plaintiff has been paid compensation for the structure, however, he has been denied compensation for the land underneath the house. The private defendants (appellants) claim that the plaintiff is not an original resident of the village and he is a non-proprietor. It was also claimed that defendants constructed the house and permitted the plaintiff to reside therein. The trial Court



dismissed the suit, however, the First Appellate Court while relying upon Section 4(1)(b) of the Punjab Village Common Lands (Regulation) Act, 1961 (in short '1961 Act') reversed the trial Court decree.

II. Arguments:-

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel for the appellant submits that the plaintiff has failed to prove that his possession is before the enforcement of '1961 Act' and therefore, he is not entitled to compensation. He submits that the plaintiff admits that the appellants are owners of the property being proprietors.

III Analysis and Discussion:-

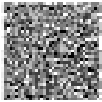
5. This Court has considered the submissions of learned counsel representing the appellant.

6. By enacting the '1961 Act', the non-proprietors were conferred ownership of the property, which is underneath their constructed house.

7. Section 4(1)(b) of the 1961 Act as applicable to Punjab reads as under:-

“Vesting of rights in Panchayat and non-proprietors.-
(1) Notwithstanding anything to the contrary contained in any other law for the time being in force or in any agreement, instrument, custom or usage or any decree or order of any court or other authority, all rights, title and interest whatever in the land:-
(a) XX XX XX
(b) Which is situated within or outside the abadi deh of a village and which is under the house owned by a non-proprietor, shall, on the commencement of Shamlat law, be deemed to have been vested in such non-proprietor.”

8. Thus, the non-proprietor was conferred ownership if the property is underneath his house on commencement of 'shamlat' law.



9. The plaintiff has claimed that he is in possession from the time immemorial and at least from 1940 when he constructed the house. The compensation for structure has been paid to the plaintiff and the defendants have never challenged the same. In other words, defendants do not dispute that the structure belong to the plaintiff.

10. Now, the only question that remains for adjudication is “whether the plaintiff proved his possession before commencement of *shamlat* law?”

11. It may be noted here that his oral evidence has been found to be reliable by the First Appellate Court. In absence of evidence to discard the same, this Court does not find it appropriate to interfere in the findings of fact.

IV. Decision:-

12. In view of the aforesaid, no ground to interfere is made out.

13. Dismissed accordingly.

14. All the pending miscellaneous applications, if any, are also disposed of.

February 07th, 2025

Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No