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

RSA-2232-2022 (O&M)

Date of Decision : 11.11.2025

CHANDU LAL (SINCE DECEASED) THR LRS

.... Appellants

VERSUS

STATE OF HARYANA AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.K. Hooda, Advocate for the appellants.

Mr. S.K. Panwar, Addl. AG Haryana for the respondents.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the concurrent findings returned by the Trial Court vide judgment and decree dated 03.02.2020 and by the First Appellate Court vide judgment and decree dated 02.09.2021.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants herein filed a suit for declaration that the Order No.35 to 39/LFA dated 09.01.2020 and the order bearing Memo No.49 dated 09.03.2017 were illegal, null and void and without jurisdiction which have been passed by defendant-respondent No.2 herein on the report Memo No.814/ST dated 19.12.2016 sent by S.D.O Civil Panipat, which was also null and void and not binding upon the rights of the plaintiff-appellants. Relief of permanent injunction was also sought. It was averred in the plaint that one Bishan Swarup Colony was constructed over Khasra Nos.1108, 1109, 1110, 1111, 1112 etc.

situated at Taraf Insar, Panipat. However, Atma Ram son of Chandu Lal was in continuous possession as *Gair Marusi* on the land comprising in Khasra Nos.1109 and 1110 total measuring 540 square yards who had constructed a residential house thereon in the year 1985. Hence, Atma Ram was legally in possession over the said plot and house constructed thereon. It was further averred that the plaintiff-appellants were neither the owners nor in possession of any residential house situated in Bishan Swarup Colony, Panipat. But for purposes of maligning the prestige and respect of the plaintiff-appellants, some mischievous persons of Welfare Society, which was not registered, made a false complaint dated 16.11.2016 to the Deputy Commissioner Panipat for removing the unauthorized possession over the land of park and street situated in Bishan Swarup Colony, Panipat. It was further the case that one Sh. Balwan Singh neighbour of the house of Atma Ram received information through RTI bearing Memo No.SPIO/RTI/2078 dated 16.11.2017 that Bishan Swarup Colony has no approved T.P. Scheme and there is no park or green belt in these khasra numbers and further there is no approved layout plan. It was further the case that under political pressure, the SDM Panipat made a false report against the plaintiff-appellants to the defendant-respondent No.2 and the District Magistrate Panipat/defendant-respondent No.2 passed the impugned Order No.35/39/LFA dated 09.01.2017. It was further averred in the plaint that Atma Ram i.e. the son of Chandu Lal had already filed CWP No.12335 of 2017 titled “Atma Ram vs State of Haryana & others”.

3. The defendant-respondents filed their written statement raising preliminary objections qua bar of jurisdiction under Section 14 of the Haryana

Evacuee Properties (Management and Disposal) Act, 2008. On merits it was averred that as per the jamabandi for the year 2003-04, the ownership of Khasra No.1109-1110-1111 Patti Insar, Panipat is of Central Government and the ownership of Khasra No.1108 is of Smt. Krishan Vanti and other persons. The Deputy Commissioner, Panipat passed the order to remove the unauthorized encroachment of the disputed land vide Memo No.35-39/LFA dated 09.01.2017 as per enquiry report which was conducted by the Sub-Divisional Magistrate, Panipat and Tehsildar Panipat. In compliance thereof the unauthorized encroachment was removed and the dismantled wall was reconstructed by the members of the society. It was further the case that in compliance of the orders of this Court dated 01.06.2017 the application of request for purchase of land in his possession was allowed vide order dated 23.02.2018 with the condition that the matter regarding transfer of plot under his possession will be considered as per policy of the Government at the time of transfer of land. It was further the case set up that the plaintiff-appellants had filed an application before the Deputy Commissioner, Panipat and the same was forwarded to the Additional Deputy Commissioner, Panipat vide Memo No.1344/LFA dated 13.11.2017 and no enquiry report was received from the Additional Deputy Commissioner, Panipat. Rest of the contents of the plaint were denied.

4. Replication was not filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to the suit for declaration as prayed for ? OPP

2. Whether the plaintiff is entitled to the consequential relief of permanent injunction as prayed for ? OPP
3. Whether the suit of the plaintiff is not maintainable ? OPD
4. Whether the plaintiff has no cause of action to file and maintain the present suit ? OPD
5. Whether the suit of the plaintiff is time barred ? OPD
6. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 03.02.2020. Aggrieved by the same an appeal was preferred by the plaintiff-appellants before the First Appellate Court which appeal was also dismissed vide judgment and decree dated 02.09.2021. Hence, the present regular second appeal by the plaintiff-appellants.

6. Learned counsel for the plaintiff-appellants would contend that the plaintiff-appellants are neither the owners nor in possession of the suit property and that it is Atma Ram son of Chandu Lal who is in continuous possession of the suit property and he has also constructed a residential house thereupon. It is further the contention of the learned counsel that the notice had been issued to him on the asking of some mischievous persons.

7. *Per contra*, the learned counsel for the defendant-respondents would contend that the notice (Ex.P1) was addressed to the general public and was not a specific order. It is further urged that Atma Ram son of Chandu Lal was issued a show cause notice for removal of the encroachment which was

challenged before this Court by filing a writ petition. The said writ petition was disposed off with the direction to the Tehsildar concerned to pass a detailed order after considering the reply given by Atma Ram.

8. Heard.

9. In the present case, the notice (Ex.P1) was issued to the general public and is not a specific order for removal of any encroachment. Even otherwise the admitted case of the plaintiff-appellants is that they are neither the owners nor in possession of the suit property. Once the plaintiff-appellants are neither the owners nor in possession of the suit property, it fails to reason as to why the present suit was filed. As per the plaintiff, namely, Chandu Lal, his son, namely, Atma Ram is in possession of the suit property, and he has constructed a house thereupon. A show cause notice was issued for removal of the encroachment which was challenged in this Court by filing a writ petition. The writ petition was disposed of with the direction to the Tehsildar to pass a detailed order after considering the reply given by Atam Ram. Thereafter, the Tehsildar withdrew the show cause notice dated 08.05.2017 issued to Atma Ram and a detailed order was passed on 23.02.2018 wherein it was observed that Atma Ram was entitled to purchase the house in dispute as per the terms and instructions of the Policy under the scheme of the Government. It was observed by the First Appellate Court that Joginder Singh Kanungo who had appeared on behalf of the defendant-respondents had disclosed that Atma Ram had filed an application on 21.07.2011 for allotment of house in question to him and his application was considered in view of the scheme of Policy of the Government and he was allotted the house after

receiving the payment. It has further been observed that Atma Ram had now become the owner and in possession of the suit property. In view of the above, and in view of the fact that it is the case of the plaintiff-appellants themselves that they have no concern with the suit property, coupled with the fact that it is observed by the First Appellate Court that the house in question has now been allotted to the son of Chandu Lal, no fault can be found with the impugned judgments and decrees passed by both the Courts concerned.

10. No question of law, much less any substantial question of law, arises in the present regular second appeal. This Court does not find any ground to interfere with the findings of facts recorded by both the Courts concerned. In view thereof, the present regular second appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

11.11.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No