

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****RSA-5632-2019 (O&M)****Date of decision: 20.08.2025****Karan Singh****...Appellant(s)****Vs.****State of Haryana and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. V.D.Sharma, Advocate for the appellant.

Mr. Priyavrat Parashar, A.A.G., Haryana.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the appellant for declaration and mandatory injunction, has been dismissed with costs by both the Courts below.

2. Brief facts of the case are that the plaintiff had filed a suit seeking declaration that he is owner in possession of the suit land measuring 3K 5M as described in the head note of the plaint. Mandatory injunction was also sought directing the defendants to execute and register the Sale Deed in his favour. It was the contention of the plaintiff that his father namely Hari Singh had purchased suit land in an open auction held on 18.06.2001. The land was surplus land in Jind Distributory No.4, which had been abandoned since 1965-66 and was declared surplus in the 2001. It was averred that the plaintiff's father had purchased the



suit land for Rs.66,000/- depositing the total consideration in the treasury in the year 2001-02 against which receipts were issued and possession was delivered in April 2002. Thereafter, the Forest Officer had raised certain objections that land formed part of Protected Forest area and had requested cancellation of auction. Father of the plaintiff had challenged this by way of CWP No. 340 of 2004 which was disposed of on 02.02.2006 with a direction to the Deputy Commissioner, Jind to decide the matter. Thereafter vide order dated 16.05.2006 after affording due opportunity of hearing to the plaintiff, Irrigation Department, Forest Department, and other connected persons, and after obtaining Spot Inspection Report dated 09.05.2006 from the Divisional Forest Officer, Jind, the Deputy Commissioner, Jind vide order dated 16.05.2006 had decided that *"After having gone through the relevant record, site inspection, evidences and circumstances of the case it would be appropriate if this land is transferred in favour of Shri Hari Singh s/o Shri Didar Singh and Shri Khushi Ram s/o Shri Jiya Lal residents of village Manoharpur as he has deposited whole auction money."*

3. It is the case of the plaintiff that father of the plaintiff Hari Singh had expired on 23.10.2007; whereafter land was inherited by the plaintiff. However, despite repeated requests made by the plaintiff to the respondents, Sale Deed was not executed. Plaintiff had again filed CWP No. 19325 of 2009; which was disposed of vide order dated 21.02.2011, observing that *"The counsel for the petitioner, however, says that the land is not a forest land. That being the fact in dispute, it cannot be gone into in*



exercise of writ jurisdiction. The petitioner may have his alternative remedy of filing the civil suit and establish that the land in question in fact is not a forest land and have necessary relief in this regard." Thereafter, plaintiff had made several representations before the respondents/defendants. A legal notice dated 05.07.2011 was served upon the defendants however, to no avail. Accordingly, plaintiff had filed the present suit on 17.10.2011.

4. Upon notice, defendants had appeared and filed written statement resisting the suit by *inter alia* submitting and raising objections on the maintainability of civil suit claiming that land was a Protected Forest land; and the auction violated the Forest Act as no prior approval of Govt. of India had been taken prior to conducting of the auction. Ld. Civil Judge, (Junior Division), Jind vide judgment and decree dated 09.02.2015 had dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was also dismissed by learned District Judge, Jind vide judgment and decree dated 05.09.2019. Hence, the present Second Appeal by the plaintiff.

5. It is *inter alia* submitted by learned counsel for the appellant/plaintiff that the learned Courts below were in patent error in dismissing the suit of the plaintiff as they failed to appreciate that Hari Singh, father of the appellant had purchased the land in open auction under the Chairmanship of SDM, Jind for a valuable amount of Rs.66,000/- deposited on 18.06.2001 and on 22.04.2002 after receipt of approval of auction from the Govt. of Haryana vide letter No. 18/87/2001/71W dated



06.02.2002 (Ex.P2). Thereafter, Hari Singh had even raised construction upon the land in dispute after spending huge amount and the said land now formed part of residential house of the plaintiff. It is submitted that despite the fact that full consideration amount has been paid by the plaintiff's father to the respondents, Sale Deed has not been executed in favour of the plaintiff. It is contended that the learned Courts below were in error in non-suiting the plaintiff as they failed to appreciate that as per Notification of 1974 Ex.D2, the land in question was transferred to Forest Department for the purpose of management only. Even title of the land has never been transferred to Govt. of Haryana. Learned counsel further refers to the pleadings as made in para 9 and 12 of the present Grounds of Appeal which read as under:

“9. That as per the Notification of 1974 (Ex.D-2) the land in question was transferred to the Forest Department for the purpose of management only. But the title of the land has never been transferred by the Haryana Government. Moreover, there is no record with the Forest Department showing that actual possession has been transferred. As per the Jamabandi 2010-11, the ownership of the land in dispute is with Haryana Government and possession no is with the Irrigation Department. There is entry in the revenue record regarding management or possession of the Forest Department. The possession of the Forest Department is not proved. The State of Haryana is true owner of the land in dispute and the father of the appellant was bonafide purchaser of the said land.

12. That the Ld. Civil Judge (J.D.) Jind has caused grave error while arriving on the finding that it is to be noted that the Government has reserved every right to withdraw from the



auction before its confirmation. It is pertinent to mentioned here that auction proceedings were duly approved by the Financial Commissioner & Principal Secretary to Govt. of Haryana, Irrigation Department vide Memo No. 18/87/2001-7IW dated 06.02.2002 (Ex.P-2), the same has been neglected by both the Courts below. In view of the above submissions the finding given in issue no. 1 is liable to reversed and the suit filed by the plaintiff deserves to be decree in his favour.”

6. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

7. No other argument is raised on behalf of the appellant/plaintiff.

8. I have heard learned counsel and perused the case file in detail.

9. I find no merit in the submissions made on behalf of the plaintiff. The plaintiff can derive no benefit from any stray revenue entries in his favour as, in case of conflict, Gazette Notification would have primacy over any revenue record. Learned trial Court has correctly observed that the Gazette is an official record admissible under Sections 35, 38 and 81 of the Evidence Act, and Court must presume it to be correct; whereas entries in the revenue record are rebuttable and do not create or extinguish title. Thus, the reliance of the plaintiff upon revenue record cannot override Govt. Notification declaring the land as Protected Forest.



10. Furthermore, in view of the admitted Notification of 1974, it is clear that land was wrongly auctioned by the Irrigation Department under mistaken belief that it was a surplus land. The record reveals that the Forest Department had immediately objected to the said auction vide letters dated 11.09.2002 and 05.12.2002 informing that the land was protected and could not be sold without the approval of the Central Government. It was in this background that the auction never came to be confirmed. It is undisputed that the Government reserves the right to cancel the auction before confirmation. In view of the fact that the auction was never confirmed, plaintiff cannot claim ownership rights and claim injunction.

11. Moreover, it is not disputed by learned counsel for the appellant that the land in question was already notified as a Protected Forest. The status of the land as forest land cannot be altered merely by encroachment/construction raised by the appellant, auction or absence of trees. Even otherwise, as per Jamabandi for the year 2010-11, the land is shown in the ownership of Govt. of Haryana and in possession of Irrigation Department. Vide Notification dated 11.10.1974 Ex.D2, the land already stood transferred to Forest Department as Protected Forest. Letters dated 11.09.2002 Ex.D3 issued by the Forest Department had clearly communicated that auction is invalid and is liable to be cancelled since the land is under Protected Forest. Reliance of the plaintiff upon the order dated 16.05.2006 Ex.PX of the Deputy Commissioner, Jind who had held that land was not a Protected Forest because it has long been in



possession of villagers, was misplaced as, as already noted above, the said order cannot override the Central Government Notification. Clearly, the Deputy Commissioner has exceeded his jurisdiction as the land already stood notified as Protected Forest and could not be de-notified or sold without the approval of the Government of India.

12. In this regard, reference may also be made to letter dated 28.08.2002 from the Deputy Conservator of Forest vide Memo/Letter No. 1409 to the Superintending Engineer Water Circle Jind, a copy of which was also sent to Deputy Commissioner, Jind, whereby it had been clarified that auction is illegal and should be cancelled. It was found that out of 84K 15M of Protected Forest land, 82 K including the suit land had been got illegally auctioned.

13. In view of the above facts, a clear and correct observation has been made by the learned District Judge, Jind in the judgment dated 05.09.2019 to the effect that despite the fact that the Deputy Commissioner was a custodian of the land, instead of protecting the same, had allowed the land to go into the hands of auction purchasers against the law of land. It has been correctly recorded that it is a case of fence eating the grass. Even the plaintiff has admitted that possession of his father over the suit land was unauthorized.

14. Contention of the plaintiff that the said land was not a forest land as there were no trees is puerile and liable to be rejected as it is trite that the Protected Forest does not only include trees but also include waste land and barren land. Mere absence of trees would not justify

encroachment or the residential use of the forest land cannot legalise ownership of Protected Forest land.

15. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

16. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

17. Pending applications, if any, stand disposed of.

20.08.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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