

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****202 -2****RSA-6194-2014 (O&M)****Date of decision: 04.09.2025****Resham Singh****...Appellant(s)****Vs.****Haryana Urban Development Authority, Sirsa****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr. Ajai Jain, Advocate for the appellant.

Mr. Baldev Raj Mahajan, Sr. Advocate for
Mr. R.S.Longia, Mr. Daanish Mahajan, and
Ms. Harita Dhanda, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Regular 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 permanent injunction, has been dismissed by both the Courts below.

2. Learned counsel for the appellant submits that learned Courts below were in error in dismissing the suit of the appellant as they failed to appreciate that the appellant had come into possession of the suit property vide Conveyance Deed duly executed and registered by the respondent in his favour. It is submitted that the fact that the appellant was owner in possession of the plot in question was proved from the evidence of Inderjit, Draftsman PW1; Jiwan Ram as PW2; and plaintiff



himself as PW3. It is contended that it was proved on record that the plaintiff had purchased a plot from defendant/respondent; upon which Conveyance Deed was executed and registered in favour of the appellant by the Estate Officer, HUDA in which it is clearly mentioned that possession of the plot was handed over to the appellant. After payment of plot, sale deed was also executed and registered. After purchasing of the plot from defendant and after delivery of physical possession of the same, plaintiff had spent Rs.1 lakh for construction of shop over the plot. It was pleaded that thereafter the plaintiff has been running his business under the name and style of M/s. R.S. Agriculture Works. Plaintiff had even obtained three phase electric connection. Therefore, plaintiff continued to be absolute owner in possession of the shop and his name has been duly entered in the records of the Municipal Committee. Thus, ownership and possession of the plaintiff over the suit property stood proved beyond doubt on the basis of cogent and convincing evidence yet, suit of the plaintiff has been dismissed.

3. Learned Senior Counsel appearing on behalf of the respondent vehemently opposes submissions made on behalf of the plaintiff and submits that clear findings have been given by the learned Courts below that the documents relied upon by the plaintiff, were forged and fabricated. It is submitted that the plaintiff had failed to produce any evidence to prove his possession let alone his ownership over the suit property. It is accordingly prayed that the present Appeal be dismissed.



4. Learned counsel for the appellant opposes submissions made on behalf of the respondent and submits that the very issuance of notice by the respondent to the plaintiff proves possession of the plaintiff over the suit property. It is contended that in such a situation, injunction could not have been denied to the plaintiff. In this regard, Learned counsel relies upon judgment of the Hon'ble Supreme Court passed in **Kayalulla Parambath Moidu Haji v. Namboodiyil Vinodan (SC): Law Finder Doc Id # 1875225**; wherein it has been held that in a suit for injunction, complicated questions of fact and law relating to title, cannot be adjudicated upon. 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.

5. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions made on behalf of the appellant/plaintiff.

6. Briefly stated, plaintiff had filed a suit for permanent injunction seeking to restrain defendant from forcibly and illegally interfering in the possession of the plaintiff over the plot No.61-A in Industrial-III measuring 130 sq.yds. bearing House Tax No. 21/4 situated at Rania Chungi, Sirsa/suit property, from HUDA Department vide Conveyance Deed bearing No. 3860 dated 21.09.2002, which had been registered in the office of Sub Registrar, Sirsa. After purchasing of the plot from defendant and after delivery of physical possession of the same, plaintiff had spent Rs.1 lakh for construction of shop over the plot. It was



pleaded that the plaintiff has been running his business under the name and style of M/s. R.S. Agriculture Works. Plaintiff had even obtained three phase electric connection. Therefore, plaintiff continued to be absolute owner in possession of the shop and his name has been duly entered in the records of the Municipal Committee. It was further pleaded that department of Mandi Township had emerged into HUDA in 1987. Thereafter, defendant had threatened to oust the plaintiff from the shop forcibly. It was averred that after payment of plot, sale deed was also executed and registered.

7. Upon appraisal of the pleadings, oral and documentary evidence adduced by the parties, learned Additional Civil Judge (Senior Division), Sirsa had dismissed the suit of the plaintiff with costs vide judgment and decree dated 10.09.2012. The Civil Appeal filed by the plaintiff was also dismissed by learned Additional District Judge, Sirsa vide judgment and decree dated 12.09.2014.

8. In respect of the disputed case raised by the parties, the following findings of the learned Trial Court as contained in para 14 of the judgment dated 10.09.2012, the relevant extract of which reads as under:-

“14.When the Estate Officer HUDA was not authorized and competent to execute the conveyance deed Ex.PW2/B in favour of the plaintiff then the conveyance deed Ex.PW2/B is not binding on the rights of the plaintiff and plaintiff cannot take the benefit of the wrong which has been done by the then Estate Officer, HUDA, Sirsa, in collusion with some subordinate staff and other beneficiaries including the



plaintiff etc. Ex.D7 to Ex.P9 are the documents which are the statement of charges against Deveshwar Dayal, the then Estate Officer, HUDA, Sirsa, now under suspension. In these documents it is specifically mentioned that Deveshwar Dayal, the then Estate Officer, HUDA, Sirsa has executed the deed of conveyance of plot No.105 B. R-III, residential area plot No.61-A of Industrial Area-III and charged simple interest from allottee of plot No.18-D instead of compounded interest causing loss to HUDA to the tune of Rs.12,50,000/-, Rs.2,50,000/- and Rs.92,195/- as shown in the document Ex.D9. It is also mentioned in Ex.D9 that Deveshwar Dayal, the then Estate Officer, HUDA, Sirsa, had executed the conveyance deed of Plot No.105-BR-III MT, Sirsa and 61-A Industrial-III MT Sirsa. whereas these plots were never allotted by Colonization Department as well as HUDA. Moreover, the plot No.61-A does not exist in Industrial Area III, Sirsa. These documents goes to show that the plot No.61-A does not exist in Industrial Area-III, Sirsa. When such is the situation, then the Estate Officer, HUDA, Sirsa, was not authorized to execute the conveyance deed in favour of the plaintiff. So, this fact goes to show that the plaintiff has managed the conveyance deed Ex.PW2/B in collusion with Deveshwar Dayal, the then Estate Officer, HUDA, Sirsa. As per the layout plan of Industrial Area No.3 in Mandi Township Ex.D1 there is no plot having number of 61-A and only plot No.61 is existing having size of 50Mx80M. Then the plaintiff is not entitled for the injunction against the defendant.”

9. The above said findings of fact have been affirmed by the learned Additional District Judge, Sirsa in paras 15 and 16 of its judgment dated 12.09.2014, which read as follows: -



“15. Plaintiff did not show any receipt which goes to show that plaintiff had deposited the amount of allotment of the plot in question. Sh.D.D. Gaur, the then Estate Officer alongwith his subordinate officials of HUDA has executed some conveyance deed without any authority or right in order to cause loss to the department. There is no plot of 61-A in the Industrial area no.3 in Mandi Township. Ex.D2 is a letter of Administrator HUDA to Chief Administrator HUDA Sector 6 Panchkula with regard to report regarding working of the Estate Officer. Ex.D2 is the letter of Chief Administrator regarding working of Estate Officer HUDA. In this letter it was mentioned that a criminal case under Section 467,468,471,120-B IPC got registered in PS Sirsa against the erring officer/officials/interested persons in whose favour the conveyance deeds of plot no.105-B Block-C, R-III Mandi Township Sirsa and plot no. 61-A Industrial Area-III M.T.Sirsa have been allowed to be executed. Ex.D5 is the Inspection report of plots files of Estate Office HUDA Sirsa from 29.5.2011 to 10.1.2002. It is mentioned that this was already in the notice of the Estate Officer and staff that conveyance deed of plot no.105-B and 61-A has been executed and signature upon the same were not genuine and no dispatch number was marked on the deed. As per deposition of Jagat Singh and Pardhuman Sharma, it has come on record that there is no plot of bearing no.61-A of the spot, the HUDA department provides the residential as well as commercial plot under the norms and policy, couple with guidance of Town Planning Department. As per official record of the defendant department space of plot in question was left vacant and unplanted and plots were carved out or allotted to any other person thus without approving any drawing of



planning, no plot of HUDA can be allotted. The plaintiff has no allotment letter with him and approved site plan with him regarding the plot in question, therefore he cannot claim the ownership and possessory right over the plot in question.

16. *Now it is clear that plaintiff had got a conveyance deed of the plot in question from Sh.D.D.Gaur and his subordinate officials for consideration alongwith possession by conniving with the officials of the HUDA and it is also established from the record that there is no plot no.61-A in the record of HUDA. Then how the sale deed or conveyance deed was executed in favour of the plaintiff/appellant. Such a conveyance deed does not cloth the plaintiff-appellant with any rights because there is no allotment letter of the plot in question in favour of the plaintiff-appellant."*

10. In view of the above concurrent findings, it has been correctly held that no injunction can be granted in favour of encroacher of public property which vested in the respondent/Department.

11. Reliance of the plaintiff upon the judgment of Hon'ble Supreme Court in **Kayalulla Parambath Moidu Haji's case (supra)** is misplaced as the said judgment is distinguishable on law and facts.

12. Even otherwise, present Second appeal is liable to be dismissed on the short ground that this Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon'ble Supreme Court in **M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559** has held that no matter howsoever incorrect or grossly

erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellant.

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

14. 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**.

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

04.09.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No