IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3346-1997 (O&M)
Reserved on :-29.04.2026
Date of Pronouncement:-06.05.2026
Uploaded on:- 07.05.2026

Ludhiana Improvement Trust, Ludhiana

… Appellant

Versus

Ashok Kumar

... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Argued by :-

Mr. Sandeep Khunger, Advocate, and
Mr. Saksham Khunger, Advocate for the appellant.

Mr. Ashok Singla, Advocate with
Mr. Ravish Bansal, Advocate, for the respondent

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VIRINDER AGGARWAL, J.

CM-10014-C-2024

1. The instant application has been preferred by the applicant-appellant under Order XLI Rule 27, read with Section 151 of the Code of Civil Procedure, 1908 (‘CPC’ for short), seeking leave of this Court to adduce additional evidence by placing certain documents on record.

2. At this stage, the learned counsel representing the applicant-appellant seeks permission to withdraw the said application, submitting that the same is not being pressed.

3. Upon due consideration of the prayer, the application is dismissed as withdrawn, having been rendered redundant by the statement of the counsel. Consequently, the application stands dismissed as withdrawn as not pressed.

<u>Main Case</u>

4. The present Regular Second Appeal (hereinafter referred to as "RSA") has been preferred by the appellant–defendant, Ludhiana Improvement Trust, assailing the judgment and decree dated 04.06.1997, whereby the learned First Appellate Court dismissed the appeal and affirmed the findings recorded by the learned Sub-Judge Ist Class, Ludhiana.

5. The factual matrix, in succinct terms, is that the respondent–plaintiff instituted a suit for permanent injunction, averring that pursuant to an advertisement issued in the year 1979, he had applied for allotment of a residential plot under the 256 Acre Scheme known as Maharishi Valmiki Nagar and had deposited a sum of ₹1,250/- as earnest money vide receipt dated 28.12.1979. It was further pleaded that the appellant–Trust allotted to him a plot measuring 200 square yards, bearing No.280-A, Block A, Model Town Extension, Scheme Part-II, Ludhiana, vide allotment letter No.6911 dated 06.07.1987 at the rate of ₹108/- per square yard, inclusive of 10% additional charges on account of its being a corner plot. Despite repeated approaches and written communications by the plaintiff expressing readiness to deposit the requisite instalments and seeking delivery of possession, the officials of the appellant–Trust allegedly failed to act, prevaricating the matter on one pretext or another. Even a legal notice served in this regard elicited no response, compelling the institution of the suit.

6. The appellant–defendant contested the suit by filing a written statement, raising preliminary objections as to maintainability and locus standi. On merits, while admitting that the plaintiff had applied under the 256 Acre Scheme and deposited earnest money, it was categorically denied that plot No.280-A, Block A, Model Town Extension, Scheme Part-II, Ludhiana had ever been allotted to him. It was asserted, instead, that the said plot stood allotted to Guru Nanak Co-operative House Building Society vide allotment letter dated 03.07.1984.

7. The respondent–plaintiff thereafter filed a replication, wherein the averments contained in the written statement were specifically traversed and those made in the plaint were reiterated. Upon a comprehensive appraisal of the pleadings and the rival submissions advanced, the learned Trial Court, for the purpose of a structured and efficacious adjudication, crystallized the disputes and framed the following issues for determination:-

1. Whether the suit is not maintainable? OPD.
2. Whether the suit is liable to be dismissed for want of service of notice u/s 98 of the Punjab Town Improvement Act? OPD.
3. Whether the plaintiff was allotted the plot in question if so on what terms and conditions? OPP
4. Whether the plaintiff is entitled to the injunction prayed for? OPP.
5. Relief.

8. Upon conclusion of the trial, the learned Sub-Judge Ist Class, Ludhiana, decreed the suit in favour of the respondent–plaintiff and restrained the appellant–Trust from cancelling the allotment in question. A further direction was issued to deliver physical possession of the allotted plot to the plaintiff; and in the event of the Trust being unable to do so, it was directed to allot an alternative plot of identical dimensions within the same scheme or, in the alternative, in any other suitable scheme, on the same terms and conditions as embodied in the allotment letter dated 06.07.1987.

8.1. The appeal preferred by the appellant–Trust was dismissed by the learned Additional District Judge, Ludhiana, who affirmed the judgment and decree of the learned Trial Court. Aggrieved thereby, the present Regular Second Appeal was instituted, which came to be admitted for hearing vide order dated 25.03.1998. Notice of the appeal was duly served upon the respondent–plaintiff, who entered appearance through counsel, and the record of the Courts below was requisitioned.

9. I have heard learned counsel for the parties at considerable length and have accorded anxious and thoughtful consideration to their respective submissions, in the light of the pleadings, the evidentiary material on record, and the concurrent findings recorded by the Courts below.

10. As regards the scope of the present appeal, it is now well-settled that second appeals arising within the States of Punjab and Haryana are to be governed by Section 41 of the Punjab Courts Act, 1918, and not by Section 100 of the Code of Civil Procedure, 1908. Reference in this regard may be made to the authoritative pronouncement of the Hon'ble

Supreme Court in ***Pankajakshi (Dead) through LRs v. Chandrika and others, (2016) 6 SCC 157***, which has been consistently followed in ***Kirodi (since deceased) through LRs v. Ram Parkash and others, (2019) 11 SCC 317*** and ***Satender and others v. Saroj and others, 2022 (12) Scale 92***. In view of the law so enunciated, the formulation of a substantial question of law is not a sine qua non for adjudication of the present appeal.

11. Learned counsel for the appellant–Trust has contended that the Courts below have misdirected themselves in appreciating the pleadings and evidence on record, and that the findings recorded are based on conjectures and surmises. It is argued that the learned Trial Court erred in holding that once a plot had been allotted to the respondent–plaintiff, the same could not thereafter be allotted to a third party, and that any such subsequent allotment would be legally unsustainable. It is further contended that the learned First Appellate Court erred in concluding that the appellant–Trust had failed to establish that its Chairman lacked competence to effect such allotment. According to the appellant, no valid allotment was ever made in favour of the respondent–plaintiff, and the alleged allotment letter is a forged and fabricated document, unsupported by any official record of the Trust. It is additionally urged that, under the Punjab Town Improvement (Utilization of Land and Allotment of Plots) Rules, 1983 (hereinafter referred to as "the Rules of 1983"), allotment of plots could only be effected through a draw of lots, and the Chairman had no authority to exercise discretionary powers, such discretion having been expressly abolished.

12. Per contra, learned counsel for the respondent–plaintiff has supported the concurrent findings of the Courts below, contending that the allotment in favour of the plaintiff was validly made pursuant to an application submitted in response to a public advertisement issued by the appellant–Trust. It is submitted that the allotment letter dated 06.07.1987 (Ex.P1), issued under the authority of the Chairman of the Trust, has been duly proved on record. It is further argued that the Trial Court rightly relied upon the admission of DW-1, an official of the appellant–Trust, who did not dispute the signatures of the Chairman on Ex.P1, thereby lending authenticity to the document. It is contended that, once a valid allotment stood made and the respondent–plaintiff demonstrated readiness and willingness to perform his part of the obligations, a vested legal right accrued in his favour, which could not be defeated by a subsequent allotment to a third party, particularly in the absence of any formal cancellation of the original allotment or affording an opportunity of hearing to the plaintiff.

13. In the present case, the respondent–plaintiff predicates his claim on the allotment letter Ex.P1, purportedly issued by the Chairman, Improvement Trust, Ludhiana, in respect of a residential plot under Model Town Extension, Part-II Scheme. The field of allotment of plots by local authorities is governed by the statutory framework laid down by the Government of Punjab through the Rules of 1983. For the purposes of adjudication of the present controversy, Rules 8 and 11 of the said Rules assume particular significance and are reproduced hereunder:-

8. The allotment of a flat is covered by Rules 8 and 11 of the Punjab Town Improvement (Utilisation of Land and Allotment of Plots), Rules, 1983, which read as under :-

"S. Mode of Sale (1) Unless otherwise provided under these rules every Trust shall allot residential plots and multi-storeyed houses by draw of lots and shall sell the commercial plots by auction;

Provided that the non-residential Indians shall be allotted residential plots.

(i) If the number of applications is less or equal to the number of plots available for allotment to such category of persons, on the basis of 'First come First served' &

(ii) If the number of applications is more than the number of plots available for allotment to such category of persons, by draw of lots.

Provided persons shall be allotted residential plots in accordance with the criteria specified in sub-rule (2) of rule 4."

11. Manner of allotment (1) Every Trust shall invite applications for allotment of residential plots or multi-storeyed houses by the dates to be specified in the notice to be published in the Newspapers widely circulated in the locality for this purpose.

(2) Every intending purchaser shall make application to the concerned trust in Form 'B' by the date specified in the notice alongwith an affidavit in Form 'C' to the effect that he fulfils the conditions of eligibility under Rule 10.

(3) No application made under sub-rule (2) shall be valid unless accompanied by a bank draft in favour of the Trust in token of earnest money as under:-

Area of plot.	Amount of earnest money.
500 square yards	Rs. 10,000/-
400 square yards	Rs. 8,000/-
300 square yards	Rs. 6,000/-
250 square yards	Rs. 5,000/-
200 square yards	Rs. 4,000/-
150 square yards	Rs. 3,000/-
100 square yards	Rs. 1,000/-

Provided that an application for allotment of a multi-storeyed house shall be accompanied by a bank draft of the amount equivalent to 10%, to the estimated cost of such house.

(4) Every person, whose application for allotment of residential plot or multi-storeyed house is pending shall also be required to apply afresh for allotment of residential plot or multi-storeyed house, as the case may be, in Form 'B' in accordance with his eligibility as specified in Rule 10;

Provided that if such a person fails to so apply to the Trust within a period of three months from the date of notice under sub-rule (1) within a period of three months from such commencement, whichever period is later he shall be considered for allotment of a residential plot or a multi- storeyed house for which he is eligible in accordance with the gross annual income or gross monthly income shown in the application already pending with the Trust.

(5) All valid applications received by the Trust in response to the notice published under sub-rule (1) and all applications pending with the Trust before the commencement of these rules in lieu whereof such applications have not been received under sub-rule

(4) shall be entered in a register to be maintained for this purpose and shall be allotted a serial number.

(6) Immediately on the expiry of the date fixed for receipt of applications the register referred to in sub-rule (5) shall be closed and the Chairman of the Trust shall attest the last entry made therein on that day by subscribing the words "Entry closed."

(7) A list of all the persons who have applied in pursuance of the notice published under sub-rule (1) shall be caused to be prepared by the Trust and posted outside its office and copy of such list shall also be sent to the Government for information."

14. In the present case, it stands admitted on record that the respondent–plaintiff had never applied for allotment of a plot in the Model Town Extension, Part-II Scheme. The case set up by the respondent–plaintiff is that he had submitted an application dated 28.12.1979 (Ex.P3) for allotment of a plot under the Maharishi Valmiki Nagar, 256 Acre Scheme. In such circumstances, the purported allotment of plot No.280-A, Block-A, Model Town Extension, Part-II, Ludhiana, vide allotment letter dated 06.07.1987 (Ex.P1), appears to have been made dehors the prescribed procedure, without any application having been submitted for the said scheme and in the absence of any draw of lots.

14.1. Such an allotment is ex facie in contravention of the Rules of 1983, which mandatorily govern the process of allotment by statutory authorities. The deviation from the statutory framework vitiates the very foundation of the alleged allotment, rendering it legally untenable.

14.2. This position stands fortified by the authoritative pronouncement of the Division Bench of this Court in ***Smt. Devinder Kaur (since deceased) v. State of Punjab and another, 2015(1) PLR 700***, wherein it has been categorically held as under:-

> 8. Learned counsel for the petitioner has contended that plots can be allotted on 'first come, first serve' basis. The condition of 'first come, first serve' basis is not in consonance with the principle of the disposal of the public property. All public properties have to be sold by public advertisement by inviting applications from the general public or a class of persons such as Local Displaced Persons in the present case. Without inviting applications through a public notice, any Rule permitting allotment of plots on 'first come, first serve' basis is not tenable in law. Reference may be made to Akhil Bhartiya Upbhokta Congress v. State of Madhya Pradesh and Other, 2011(5) SCC 29.
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> xxxx
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> 11. The allotment of plot has been made to the petitioner without any public advertisement Inviting applications from similarly situated eligible applicants. Therefore, the cancellation of plot cannot be said to be unjustified. Still further, the allotment has been made by the Chairman of the Improvement, but such allotment has to be approved by the Trust. The powers of the Chairman are defined in Section 96 of the Improvement Trust Act. The statutory power does not empower to the Chairman to make allotment of plots.

15. The factual matrix of the present case is substantially analogous to the precedent referred to here-in-above. In the instant matter as well, no public advertisement was issued inviting applications from eligible or similarly situated persons, and the alleged allotment is stated to have been made solely at the instance of the Chairman of the Improvement Trust.

16. This Court, in ***Ludhiana Improvement Trust, Ludhiana v. Amarjit Singh and another (Law Finder Document ID #1653501)***, while dealing with a batch of ten Regular Second Appeals arising out of identical circumstances involving allotments made by the same Chairman, unequivocally held such allotments to be violative of the Rules of 1983. It was observed therein that no applications had been invited, nor was the mandatory procedure prescribed under Rule 11 of the Rules of 1983 adhered to, thereby rendering the allotments illegal and unsustainable in law.

16.1. Applying the ratio of the aforesaid judgments to the facts of the present case, it is evident that the purported allotment in favour of the respondent–plaintiff was effected dehors the statutory framework, without compliance with the mandatory provisions of the Rules of 1983, and in purported exercise of a discretion which did not vest in the Chairman of the Improvement Trust. Such an allotment, being in clear contravention of statutory mandates, is devoid of legal sanctity.

16.2. Consequently, the findings recorded by both the Courts below, having been rendered on a misappreciation of the evidence and in disregard of the governing statutory provisions, cannot be sustained in the eyes of law. Appeal of Trust is allowed and judgment & decree, in favour of respondent/plaintiff is set aside and his suit stands **dismissed**.

17. In view of the final adjudication of the principal controversy, all pending miscellaneous and interlocutory applications, if any, shall stand disposed of by necessary implication, no separate or further orders being warranted, as their consideration has been rendered wholly academic and infructuous.

(VIRINDER AGGARWAL)
JUDGE

06.05.2026
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No