



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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SAO-97-2016 (O&M)
Date of decision: 03.04.2025

LALA RAM (DECEASED) THROUGH LRS. ..Appellant

Versus

SATISH AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Alok Jain, Advocate
Mr. Ankur Kaushik, Advocate
for the appellant.

Mr. Amit Jhanji, Sr. Advocate
with Mr. Abhilaksh Grover, Advocate
Ms. Eliza Gupta, Advocate
for respondent No.1 and 2.

ANIL KSHETARPAL, J(Oral)

I. Brief facts:-

1. The legal representatives of defendant No.5 assail the correctness of First Appellate Court's order, which in turn has reversed the trial Court's order rejecting the plaint under Order VII Rule 11 Code of Civil Procedure, 1908.

2. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

3. As per the provisions of the Haryana Ceiling on Land Holdings Act, 1972 (in short '1972 Act'), Sh. Bihari Lal was declared big landowner and his land was declared surplus (beyond the ceiling limit). Subsequently, the surplus land was allotted in favour of Sh. Phool Singh, Sh. Ram Chand and Smt. Rajni etc., who in turn alienated the property in favour of the plaintiffs namely Sh. Satish and Sh. Ramji Lal. Subsequently, Sh. Lala Ram



claimed to be tenant in possession and complained to the authority for cancelling the allotment letter. The prescribed authority refused to set aside the allotment. The appellant Sh. Lala Ram filed appeal before the Collector, which was accepted. The plaintiffs were not a party, either before the prescribed authority or before the Collector. Sh. Phool Singh etc. filed revision petition before the Commissioner in which for the first time, the plaintiffs were impleaded as party. Ultimately, the revision petition was accepted and the order passed by the Collector was set aside while restoring the order passed by the prescribed authority. The second revision petition was filed by the appellant, which was accepted on 22.09.2008. Sh. Phool Singh etc. filed writ petition in the High Court, which was dismissed on 12.12.2009 with the following order:-

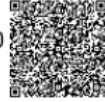
“The petitioners are aggrieved against the order passed by the Financial Commissioner, whereby he has not only held that respondent No.6 would not be entitled to allotment of the land as a tenant, but has further held that even the petitioners have violated the conditions contained in Section 15(5) of the Haryana Ceiling of Land Holdings Act, 1972 and proviso thereof by selling the land within five years of the allotment. It is also noticed that the petitioners, though had got allotment in their favour in the year 1999, but they were residents of Delhi. The mutation was sanctioned on 8.4.2004, whereas the sale of the land was made on 6.5.2004. The petitioners, seem to have managed the allotment of this land as a tenant and have sold it as soon they could do so. There is, thus, no equity in favour of the petitioners. I am not inclined to interfere in the exercise of writ jurisdiction.

Dismissed.”

4. Special leave petition filed by Sh. Phool Singh etc. was also dismissed.

5. The plaintiffs filed the suit claiming to be bona fide purchasers.

The application was filed under Order VII Rule 11 Code of Civil Procedure,



1908, which was accepted by the trial Court on the ground that the Civil Court lacks jurisdiction, however, the First Appellate Court reversed the same.

II. Arguments addressed:-

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

7. Learned counsel for the appellant contends that the order cancelling the allotment has become final because special leave petition before the Supreme Court has been dismissed and the jurisdiction of the Civil Court is barred under Section 26 of the '1972 Act'. He further submits that the plaintiffs were impleaded as party before the Commissioner, hence, they will be considered to be party from the very beginning. Consequently, they have no right to maintain the suit.

8. Per contra, learned Senior counsel for respondent No.1 and 2 submits that the jurisdiction of the Civil Court is not barred because the impugned order passed by the authority does not affect the surplus area.

III. Discussion:-

9. This Court has considered the submissions of learned counsel for the parties.

10. It is evident that the plaintiffs were not impleaded as party when Sh. Lala Ram filed application before the prescribed authority seeking cancellation of the allotment in favour of Sh. Phool Singh. The plaintiffs were also not impleaded as party in the first appeal. The writ petition was filed by the original allottees namely Sh. Phool Singh etc. wherein, the High Court refused to exercise equitable jurisdiction. Special leave petition was also filed by Sh. Phool Singh. Moreover, Section 26 of the '1972 Act' bars



the jurisdiction of the Civil Court with respect to a civil suit, which affects the rights of the State to the surplus area under this Act. The allotment of surplus land is not under the '1972 Act' but it is under the Haryana Utilisation of Surplus and other Areas Scheme, 1976.

11. Moreover, only the contents of the plaint are required to be seen. Rejecting a plaint at the threshold has a very serious consequences. Hence, the order is required to be passed after going deep into the matter.

12. The last submission of learned counsel for the appellant is on the plea of *res judicata*, which is again required to be pleaded and proved by the defendants.

IV. Decision:-

13. Keeping in view the aforesaid discussion, no ground to interfere is made out.

14. Dismissed.

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

April 03rd, 2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*