

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

2025:PHHC:127763



120

RSA-801-2022 (O&M)
Date of Decision: 11.09.2025

Sunita Kumari

...Appellant

Versus

Cantonment Board Ferozepur and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Tarun Sharma, Advocate, for the appellant.
(Through Virtual Mode – VC)

Mr. Arun Gosain, Senior Govt. Counsel, for
respondent Nos. 1 and 2.

VIKRAM AGGARWAL, J (ORAL)

Defendant No.3-Sunita Kumari is in appeal against the judgment and decree dated 09.12.2019 passed by the Court of District Judge, Ferozepur, dismissing the appeal filed by her against the judgment and decree dated 21.11.2018 passed by the Court of Addl. Civil Judge (Senior Division), Ferozepur, vide which the suit for declaration filed by the plaintiffs was decreed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3 The plaintiffs (Cantonment Board, Ferozepur and Union of India) filed a suit for declaration to the effect that the sale deed dated 30.05.2001 executed by defendant Nos. 1 and 2 through their General Power of Attorney, in favour of defendant No.3 in respect of House bearing portion of House No. 156(P),

situated at Sant Lal Road, Ferozepur Cantt (fully detailed in the plaint), was wrong, null and void, against the provisions of the Cantonment Act, without jurisdiction and ineffective on the rights of the plaintiffs and was liable to be set aside. A consequential relief of permanent injunction was also sought restraining defendant No.3 from further alienating the suit property in any manner, whatsoever, to anybody and also restraining defendant No.4 from making registration of any such sale deed without obtaining NOC (No Objection Certificate) from the Central Government, as per the provisions of the Cantonment Act.

4. It was claimed that Bungalow No. 156(P) (hereinafter referred to as the 'suit property') was owned by the Central Government. It was an old grant property and that as per the General Land Register, the Holders of Occupancy Rights (HORs) of the suit property were Lt. Col. Manmohan Nath Dutt, Smt. Promila Chibber, Smt. Rama Chibber, Sh. Sandeep Dutt and Sh. Manoj Dutt. The said HORs had no right to sell the same. It was further averred that defendant Nos. 1 and 2, through their General Power of Attorney, had sold the suit property to defendant No.3 despite knowing well that they had no right to alienate. It was further averred that if any HOR wanted to sell any such property, he/she had to first get the property converted into free hold by paying cost of land to the Government of India and to get title in their favour. Only thereafter, the HOR could sell the free hold property or any part thereof to any person, other than the Government of India, after first making an offer in writing to sell the same to the

Government of India, and if the Government of India, within three months of such offer had declined or neglected to purchase the same. Transfer of HORs over the entire property as a whole required prior sanction of the Central Government.

5. It was further averred that the Hon'ble Supreme Court in Union of India & Others Vs. Harish Chand Anand, 1995 Supp.(4), SCC 133 and Chief Executive Officer Vs. Surinder Kumar Vakeel & Others, (1999), 3 SCC 555, has held that the land in Cantonment area was occupied only as an occupant/licencee and any transfer of the property situated therein, required prior approval of the defence establishment. It was further averred that defendants No.1 to 4 had registered the sale deed without taking any NOC from the Central Government. The plaintiffs had moved various applications to defendants No.4 to 6 for cancellation of the sale deed, but all in vain.

6. Defendants No.3, 4 and 6 had appeared and filed separate written statements, whereas suit against defendants No.1 and 2 was dismissed in default for non-compliance of the order(s) of the Court.

7. In her written statement, defendant No.3 took preliminary objections regarding the maintainability of the suit; the plaintiffs having not approached the Court with clean hands and concealing material facts. On merits, it was averred that the sale deed dated 30.05.2011 was legal and valid. It was further claimed that before execution and registration of the sale deed, defendant No.3 had inquired about the legality and validity of the sale deeds in respect of the properties situated in the Cantonment area from defendants No.4 to 6 and she was

informed that there was neither any ban nor any restriction in respect of such sale deeds. It was further averred that defendant No.3 had been owner in possession of the suit property since the date of registration of the sale deed having purchased the same for valuable consideration.

8. Defendants No.4 to 6 in their written statement took preliminary objection as regard the non-issuance of notice under Section 80 CPC. It was averred that while effecting the registration of the sale deed, no illegality or irregularity was committed by the Sub-Registrar. On merits, the status of the suit property being old grant property was denied for want of knowledge, so was the factum of defendants No.1 and 2 being HORs of the suit property.

9. Replication was filed by the plaintiffs denying the averments made in the written statement and reiterating those made in the plaint.

10. From the pleadings of the parties, the following issues were framed:-

- “1. Whether the plaintiff is entitled for the decree of declaration as prayed for? OPP
2. Whether the plaintiff is entitled for permanent injunction as consequential relief as prayed for? OPP
3. Whether suit of the plaintiff is not maintainable? OPD
4. Whether suit of the plaintiff is bad for non service of notice under Section 80 CPC? OPD
5. Whether plaintiff has not come to the Court with clean hands and has concealed or suppressed the material facts from the Court? OPD
6. Whether suit of the plaintiff is within limitation? OPD
7. Relief.”

11. The trial Court decreed the suit filed by the plaintiffs. The appeal filed by defendant No.3 was dismissed by the First Appellate Court, leading to the filing of the instant Regular Second Appeal.

12. I have heard learned counsel for the parties and have perused the record.

13. Learned counsel for the appellant has submitted that the findings recorded by the Courts below are legally untenable, inasmuch as, the documents Exs.P1 to P8 produced in evidence by the plaintiffs, were not admissible in evidence being the photocopies and no original record had ever been produced. It is further argued that the factum of the suit property being the ownership of the Cantonment Board was not proved. It is argued that PW1-Sandeep Bajaj, Tax Collection Clerk, Ferozpur, did not bring original GLR (General Land Register) and other record in respect of the suit property. Learned counsel has further argued that the suit against defendants No.1 and 2 (Vendors) was dismissed on 03.08.2018, for non-compliance of the directions issued by the Court and the said defendants being the proper and necessary parties, no decision in the suit could have been arrived at in their absence. It is also argued that the suit property being ownership of the Government of India, Cantonment Board, Ferozpur, had no right to file the suit.

14. On the other hand, learned counsel for the plaintiffs-respondent Nos. 1 and 2, has submitted that defendant Nos. 1 and 2 had no right to sell the suit property in favour of

defendant No.3, without prior approval of the Government. It is further argued that the ownership of the suit property vested with the Government of India only and thus, defendant Nos. 1 and 2 had no right to transfer the same in favour of defendant No.3. Reliance has been placed upon **Union of India and Ors. Vs. Harish Chand Anand**, AIR 1996 SC 203; **Chief Executive Officer Vs. Surendra Kumar Vakil & Ors.**, AIR 1999 SC 2294 and **Union of India Vs. Dinshaw Shapoorji Anklesari**, (2014)14 SCC 204. While defending the judgments and decrees passed by both Courts, it is submitted that merely because defendant No.4 had registered the sale deed in favour of defendant No.3, is no ground to hold that the appellant-defendant No.3 has obtained clear title over the suit property. It is, thus, submitted that there is no illegality in the impugned judgments and decrees passed by the Courts below and, therefore, no interference is called for in the present Regular Second Appeal.

15. I have considered the submissions made by learned counsel for the parties.

16. The ownership of the Central Government over the suit property was admitted by the defendants (including the appellant-defendant No.3). It was proved on record that before effecting the alleged sale in favour of the appellant, defendant Nos. 1 and 2 (being HORs and/or claiming under them), did not obtain any approval from the Government of India. The defendants (including the present appellant) had failed to prove on record that the suit property had ever been got converted into free hold by depositing the conversion cost and any order passed in this regard by the Government. Under these

circumstances, the trial Court found that the sale deed executed by defendant Nos. 1 and 2 in favour of defendant No.3 was against the prescribed legal procedure and without any adherence to the conditions of the GGO, inasmuch as they did not take any permission/sanction/no objection certificate from the Government before doing so.

17. It was also found that before registering the sale deed, defendant No. 4 did not seek any information from the plaintiff-Board, which was mandated under Section 354(2) of the Cantonment Act, 2006. The contention of learned counsel for defendant No.3 in respect of the receipts Exhibits D.5 and D6 having been issued by the plaintiff-Board in the name of defendant No.3, was found to be devoid of merit. It was held that anyone could deposit the water/house tax charges on behalf of the HORs and issuance of receipts in this regard, in the name of defendant No.3, could not lead to any conclusion as regards her title over the suit property. The said findings recorded by the trial Court, were affirmed by the first Appellate Court, while dismissing the appeal filed by the appellant.

18. In the considered opinion of this Court, once it is found by both the Courts that defendant Nos. 1 and 2 were not empowered to transfer/sell the suit property without prior approval of Government of India, the said defendants could not have effected the sale deed in favour of defendant No.3. Indisputably, the suit property is the ownership of the Central Government and defendant Nos. 1 and 2 had only been licensee/occupants (being HORs or claiming under them) of the said property. Merely because defendant Nos.3 had been issued

receipts in respect of payment of the water/house tax charges is no ground to hold that she had got any right, title or interest in the suit property, as such bills could be paid by anyone in the name of the real owner.

19. Both the Courts have recorded concurrent findings of facts on the basis of evidence led by the parties. It could not be shown that such findings suffer from any patent illegality which may warrant interference by this Court in the present Regular Second Appeal.

20. In view of the aforementioned facts and circumstances, I do not find any merit in the present appeal and the same is, accordingly, dismissed.

21. Pending application(s), if any, also stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

11.09.2025
ds

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