



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

(104)

**RSA-2325 of 1995(O&M)
Date Of Decision: 22.01.2026**

State of Punjab and others

... Appellants

Versus

Rajwinder Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. I.S.Kingra, Sr. DAG, Punjab
for the Appellants.

Mr. S.K.Chawla, Advocate (Through VC)
for the Respondent.

VIRINDER AGGARWAL, J(Oral)

1. The present Regular Second Appeal has been preferred by the State of Punjab and its authorities against the judgment and decree dated 02.05.1995 passed by the learned Additional District Judge, Faridkot, whereby the appeal filed by the appellants was dismissed and the judgment and decree dated 23.02.1993 passed by the learned Sub Judge II Class, Muktsar, decreeing the suit of the plaintiff/respondent for declaration and permanent injunction, was affirmed.

2. The respondent instituted a civil suit seeking declaration to the effect that he is the lawful purchaser and owner in possession of land measuring 621 square yards 6 square feet, comprised in khasra Nos. 818 min and 819 min, situated at Mohalla Water Works, Muktsar, purchased by him in an open public auction held on 06.03.1987 conducted by Tehsildar (Sales), Muktsar. It was pleaded that the respondent deposited ¼th of the bid amount at the fall of hammer and was assured that the balance amount would be demanded after



approval of the sale by the competent authority. However, no notice was issued to him for depositing the remaining amount. Subsequently, he came to know that the auction had been cancelled without any notice or opportunity of hearing and that the property was again proposed to be auctioned. The plaintiff/respondent challenged the cancellation as illegal, arbitrary, violative of principles of natural justice and not binding upon him. The appellants/defendants contested the suit, inter alia, on the grounds that notice under Section 80 CPC was mandatory; that the civil court had no jurisdiction in view of Section 16 of the Punjab Package Deal Properties (Disposal) Act, 1976; and that the sale was liable to be cancelled in terms of Government instructions as the auctioned area exceeded the permissible limit.

3. Upon a meticulous examination of the pleadings and the competing claims of the parties, the learned Trial Court proceeded to frame the following issues for determination:-

(i) Whether a notice under Section 80 CPC was essentially required to be served on the defendants before filing the present suit? If so, what is the effect of non-service of notice? OPP

(ii) Whether the Civil Court has no jurisdiction to entertain and try this suit? OPD

(iii) Whether the suit is not competent in view of legal objection No.3 of the written statement? OPD

(iv) Whether the plaintiff is owner in possession of the suit property OPP

(v) Whether the plaintiff is entitled to the declaration prayed for? OPP



(vi) Whether the plaintiff is entitled to the injunction prayed for?

OPP

(vii) Relief.

4. Both parties were afforded full and adequate opportunity to adduce evidence in substantiation of their respective claims and defences. Upon the culmination of the evidentiary proceedings, and after hearing learned counsel for the parties at length, the learned Trial Court decided all the issues in favour of the plaintiff/respondents and proceeded to decree the suit in favour of plaintiff/respondents. The learned trial Court held that exemption from notice under Section 80 CPC had been validly granted, the civil court had jurisdiction, the cancellation order was arbitrary and non-speaking, passed without hearing the plaintiff, and the plaintiff was entitled to declaration and injunction. Aggrieved by the judgment and decree so rendered by the learned Trial Court, the appellant/defendant preferred an appeal before the learned Additional District Judge, Faridkot. The said first appeal, however, met the same fate and was dismissed by the learned Additional District Judge, Faridkot, affirming the findings that the auction had already been confirmed by the competent authority and could not have been cancelled subsequently by a cryptic one-word order without affording opportunity of hearing; further that the Government instructions relied upon were subsequent to the confirmation of sale and could not operate retrospectively. Aggrieved, the appellants have approached this Court in second appeal.

CONTENTIONS

5. Learned State counsel assailing the impugned judgments and decrees, contended that the findings recorded by both the Courts below are contrary to law and the evidence on record and are based on conjectures and surmises. It



was submitted that the Courts below failed to correctly appreciate the legal position and the documentary evidence produced by the appellants and did not adequately deal with the contentions raised in defence. It was further argued that the suit was not maintainable in the absence of a mandatory notice under Section 80 of the Code of Civil Procedure and that neither any such notice was served nor valid exemption was obtained prior to institution of the suit. Learned counsel further contended that in view of Section 16 of the Punjab Package Deal Properties (Disposal) Act, 1976, the jurisdiction of the civil court was barred and the respondent was required to avail the statutory remedy. It was also urged that the first appellate court failed to return findings on all the issues raised before it and that the judgments under challenge are illegal, improper and unsustainable, warranting interference by this Court.

6. Per contra, learned counsel for the respondent supported the impugned judgments and submitted that all issues were correctly appreciated by both the Courts below on the basis of evidence and settled principles of law. It was contended that valid exemption from notice under Section 80 CPC had been granted; that the civil court had jurisdiction to examine the legality of an arbitrary administrative action; and that the first appellate court had adequately dealt with all material issues. Learned counsel further submitted that the findings are concurrent and purely factual in nature and no substantial question of law arises in the present appeal.

OBSERVATIONS AND FINDINGS

7. I have heard learned counsel for the appellant at considerable length and have bestowed anxious and thoughtful consideration upon his submissions, keeping in view the pleadings of the parties, the evidentiary material brought on record, and the concurrent findings returned by the Courts below.



8. As regards the scope of second appeal, it is now a settled proposition of law that in Punjab and Haryana, second appeals preferred are to be treated as appeals under Section 41 of Punjab Courts Act, 1918 and not under Section 100 of CPC. Reference in this regard can be made to the judgment of the Supreme Court in the case of '*Pankajakshi (Dead) through LRs and others V/s Chandrika and others*', (2016)6 SCC 157, followed by the judgments in the case of '*Kirodi (since deceased) through his LR V/s Ram Parkash and others*' (2019) 11 SCC 317 and '*Satender and others V/s Saroj and others*', 2022(12) Scale 92. Relying upon the law laid down in the aforesaid judgments, no question of law is required to be framed.

9. At the outset, the foundational facts are not in dispute. The suit property measuring 621 square yards 6 square feet was put to open public auction on 06.03.1987 by the Tehsildar (Sales), Muktsar. The respondent emerged as the highest bidder for ₹13,500/- and deposited one-fourth of the bid amount, i.e. ₹3,375/-, immediately at the fall of the hammer (Receipt Ex.P1). The record and bid sheet (Ex.D1) further reveals that the competent authority, (Sales Commissioner, Muktsar) thereafter approved and confirmed the auction sale on 09.11.1987. It is equally undisputed that after confirmation of the sale, the respondent was never called upon to deposit the balance sale consideration and no conveyance was executed in his favour. The controversy arises on account of a subsequent cryptic order dated 24.05.1988 whereby the sale already confirmed was cancelled by a single word order "Rejected", without recording any reasons and without issuing any notice or affording any opportunity of hearing to the respondent. Such an order admittedly affects valuable civil rights of the respondent who had acquired a legitimate and enforceable interest in the property upon confirmation of the auction.



10. It is a settled principle of law that once an auction sale is confirmed by the competent authority, the transaction attains finality subject only to lawful cancellation in accordance with procedure established by law. Any administrative or quasi-judicial order having the effect of divesting a citizen of accrued civil rights must necessarily be supported by reasons and necessarily conform to the principles of natural justice, transparency and fairness. An unreasoned, non-speaking order passed behind the back of the affected party cannot be sustained in the eyes of law. The cancellation of a concluded auction by a cryptic one-word order “rejected” reflects an approach wholly inconsistent with the constitutional ethos governing public administration.

11. Such arbitrary exercise of power appears to be under the lingering hangover of monarchical practices prevalent prior to independence, when unreasoned commands were the norm. The times, however, have long changed. In a sovereign democratic republic governed by the Constitution of India, every public authority is bound by the rule of law and cannot act according to personal whims or unfettered discretion. The Sales Commissioner, Muktsar being a statutory functionary, was duty bound to act fairly, reasonably and in conformity with constitutional discipline. Before taking any action adversely affecting the accrued civil rights of the respondent/plaintiff, it was incumbent upon the authority to issue notice and afford a reasonable opportunity of hearing in consonance with the principles of natural justice. Failure to adhere to these basic safeguards renders the impugned action arbitrary, legally unsustainable and violative of Articles 14 and 21 of the Constitution of India.

12. Further, the Circular dated 13.11.1990 reveals that the Governor-in-Council, in its meeting held on 23.11.1987, decided that urban evacuee land should thereafter be disposed of by carving out residential plots up to 300



square feet and commercial plots above 300 square feet, subject to the reserve price to be fixed by the Government. However, in the present case, the auction had already been conducted on 06.03.1987 and the sale stood confirmed by the Sales Commissioner on 09.11.1987, much prior to the said policy decision. Despite this, the Sales Commissioner astonishingly cancelled the confirmed sale by passing a cryptic one-word order “rejected”, without issuing any notice or affording an opportunity of hearing to the respondent/plaintiff, thereby violating the principles of natural justice. Even no reason has been recorded by the sales commissioner while rejecting the auction and it can not be subsequently stated that auction was rejected in view of decision taken by Governor-in-Council when specifically same is not stated in the order. Therefore, the contention raised on behalf of the appellants that the auction was beyond jurisdiction in view of the subsequent Government instructions prescribing limits of area is wholly misconceived, as a subsequent executive instruction cannot operate retrospectively to invalidate a concluded and confirmed transaction, unless such power is expressly conferred by statute, which is conspicuously absent in the present case. Furthermore, once the competent authority itself confirmed the sale, the appellants cannot be permitted to approbate and reprobate by later asserting lack of jurisdiction. Any administrative lapse on the part of the authorities cannot be allowed to defeat the accrued and vested rights of a bona fide auction purchaser.

13. So far as the objection regarding non-service of notice under Section 80 of the Code of Civil Procedure is concerned, the record clearly establishes that the learned Trial Court had granted exemption to the plaintiff/respondent from issuance of statutory notice after due consideration of the facts and circumstances of the case. Once such exemption has been judicially granted by



a competent court, the institution of the suit cannot be rendered defective on that ground. The said finding has attained finality and no perversity or illegality has been demonstrated so as to warrant interference. Consequently, the objection raised under Section 80 CPC stands rejected.

14. Lastly, the objection raised by the appellants regarding the maintainability of the civil suit and the alleged bar of jurisdiction under Section 16 of the Punjab Package Deal Properties (Disposal) Act, 1976 is equally devoid of merit. It is well settled that exclusion of civil court jurisdiction is not to be readily inferred and such exclusion must either be expressly provided or necessarily implied. Even where a statute provides a special forum or remedy, the jurisdiction of the civil court is not ousted where the action of the statutory authority is shown to be arbitrary, without jurisdiction or in violation of the principles of natural justice. In this regard, reliance can be placed upon the judgments by the Hon'ble Supreme Court in *Dhulabhai v. State of Madhya Pradesh*, AIR 1969 SC 78, and *Rajasthan State Road Transport Corporation v. Bal Mukund Bairwa*, 2009 (4) SCC 299. Thus, in the present case, the cancellation of a confirmed auction by a cryptic one-word order without issuance of notice or affording opportunity of hearing is ex facie arbitrary and has resulted in deprivation of vested civil rights of the respondent. The suit was, therefore, rightly entertained as the respondent/plaintiff was seeking protection against an illegal and unconstitutional exercise of power rather than merely assailing an administrative discretion. Access to civil courts for redressal against arbitrary State action is an essential facet of the rule of law and cannot be curtailed unless the statute clearly and unequivocally mandates otherwise. Consequently, the bar of jurisdiction under Section 16 of the Act does not operate in the facts of the present case and the suit is clearly maintainable.



15. In view of the foregoing discussion, the findings recorded by both the Courts below are based upon proper appreciation of oral and documentary evidence. No material contradiction, misreading of evidence or omission of relevant material has been pointed out by the appellants so as to warrant interference in second appellate jurisdiction.

16. Accordingly, this Court finds no merit in the present Regular Second Appeal. The same is accordingly **dismissed**. The judgments and decrees passed by the Courts below are hereby **affirmed**.

17. Since the main appeals stand decided, the miscellaneous application(s), if any, stand disposed of accordingly.

22.01.2026

Saurav Pathania

**(VIRINDER AGGARWAL)
JUDGE**

<i>Whether reasoned / speaking?</i>	<i>Yes / No</i>
<i>Whether reportable?</i>	<i>Yes / No</i>