

o

C.A.No. 598 OF 1997

ITEM No.112

Court No. 9

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 598 of 1997

VIJAY KUMAR & ORS.

Appellant (s)

VERSUS

MUNICIPAL COMMITTEE, JIND & ORS.

Respondent (s)

(With appln.(s) for stay, permission to place addl. documents on record, exemption from filing O.T. and office report)

Date : 24/07/2003 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. Manoj Swarup,Adv.
Mr. Ajay Kumar,Adv.
Ms. Nidhi Agarwal,Adv.

For Respondent (s)Mr. Jasbir S. Malik,Adv.
Ms. Kamakshi S. Mehlwal,Adv.

Mr. Pardeep Gupta,Adv.
Mr. K.K. Mohan,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties from 2.20 p.m. to 2.55 p.m.

The civil appeal is dismissed.

No order as to costs.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 598 OF 1997

Vijay Kumar & Ors. ...Appellant(s)

Versus

Municipal Committee, Jind & Ors. ...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

The appellant filed a suit for permanent injunction against the respondents restraining them from auctioning the land shown, in red colour, in the site plan attached, which was meant to be used as the green belt and the place for parking. The appellant pleaded that the green belt was part of Scheme No. 19. The trial court decreed the suit. The first appellate court reversed the decree passed by the trial court. The appellant approached the High Court by filing the second appeal. The High Court did not find any good or valid ground to take a view different from the one taken by the appellate court. Having regard to the admitted facts, the High Court, in the impugned order, as stated thus:

"I have heard the learned counsel for the parties. Admittedly, the green belt/place of parking does not form part of scheme No.19. There is no proof on record that any promise was made by the Improvement Trust to the auction purchasers that the
...2/-

- 2 -

green belt and parking place as shown in the site plan would retain its entity. As has come on record, Vijay Kumar and Smt. Sheela Rani are not auction purchasers and the other plaintiff has not come in the witness box to depose in support of the assertions made by the plaintiffs.

The matter was otherwise also examined by this Court in a writ petition filed by Sham Lal & Ors. (Vijay Kumar purchaser from Sham Lal) was got dismissed as withdrawn. All the same, the Court observed that there was no ground to interfere."

The High Court also noticed that the writ petition seeking a similar relief was also dismissed. The finding of fact recorded is that the green belt/place for parking does not form part of Scheme No.19. This finding is essentially a finding of fact recorded by the first appellate court and affirmed by the High Court.

A perusal of the impugned order of the High Court does not show that any substantial question of law arose for consideration. On the finding of fact recorded, the High Court was right in dismissing the appeal. We do not find any good ground to interfere with the impugned order. The civil appeal is, accordingly, dismissed.

No order as to costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[D.M. DHARMADHIKARI]

New Delhi,
July 24, 2003.