

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

--

CR 5354 of 2016 (O&M)
Date of decision: 17.10.2016

Sudesh Kumari

..... Petitioner

Versus

Sher Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

CM 20811 CII of 2016

Allowed as prayed for. Annexure P9 is taken on record subject
to just exceptions.

Main case

The present petition has been directed against order dated
20.05.2016 passed by the Additional Civil Judge (Senior Division)
Kurukshetra whereby application filed by the petitioner (defendant No. 4)
under Order 7 Rule 11 of the Code of Civil Procedure (in short, CPC) for
rejection of plaint on the premise that the civil Court has no jurisdiction to
entertain and try the suit as *Oustees* Adalat has jurisdiction to decide the
dispute, has been dismissed.

Counsel for the petitioner has submitted that *Oustees* Adalat
was constituted with regard to each of the zone demarcated by the Haryana
Urban Development Authority (in short, 'HUDA') comprising of the Zonal

Administrator, the concerned Estate Officer of the urban estate and the District Town Planner to re-examine claim of the oustees and the Apex Appellate Body comprising of the Administrator Headquarter, Panchkula and Chief Town Planner, HUDA, Panchkula was constituted to listen to grievance of aggrieved person, therefore, the Civil Court ceases to have jurisdiction to decide such matters. It is further submitted that in a similar matter, the Additional Civil Judge (Senior Division) Kurukshetra, rejected the plaint vide order dated 16.04.2015 (Annexure P8). Another submission made by counsel is that jurisdiction of the civil Court is also barred under Section 50 of the Haryana Urban Development Authority Act, 1977 (in short, the Act).

I have heard counsel for the petitioner and perused the paper book but find that the petition is devoid of merit and deserves to be dismissed.

So far as the plea of the petitioner with regard to constituting of Oustees Adalat or Apex Appellate Body, counsel has fairly informed that neither the Oustees Adalat nor Apex Appellate Body is creation of a statute, creating any bar against invoking jurisdiction of the civil Court with regard to claim of an Oustee. That being so, I find myself unable to accept submissions of the petitioner that jurisdiction of the civil Court is ousted due to creation of Oustees Adalat and Appellate fora in exercise of administrative powers by the State of Haryana. The mere fact that the trial Court in another case has allowed the application for rejection of plaint on the ground of jurisdiction and said order having not been challenged by the aggrieved party cannot be treated as a precedent to uphold plea of the petitioner that jurisdiction of the civil Court is barred.

With regard to jurisdiction of the civil Court being barred under section 50 of the Act, no such plea was raised before the trial Court, therefore, the same cannot be entertained by this Court. However, the petitioner would be at liberty to raise such a plea at an appropriate stage before the trial Court, if so permitted.

Dismissed.

(Rekha Mittal)
Judge

17.10.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No