

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

RSA No.1882 of 2016 (O&M)

Date of decision:23.04.2016

The Hoshiarpur Improvement Trust, Hoshiarpur ... Appellant

Vs.

Gurcharan Kaur ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. M.L.Saini, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.4987-C of 2016

For the reasons stated in the application, duly supported by an affidavit, delay of 80 days in filing the appeal is condoned.

C.M. stands disposed of.

RSA No.1882 of 2016 (O&M)

The appellant-defendant is in Regular Second Appeal against the concurrent findings of fact and law, whereby, decree of declaration for setting aside the demand of ₹15,380/- raised on account of construction charges, has been set aside.

Mr. M.L.Saini, learned counsel appearing on behalf of the appellant-defendant submits that no doubt, the appellant-defendant did not lead any evidence but the respondent-plaintiff in cross

examination admitted that she completed the construction in the year 1998 but official of the Improvement Trust gave the report that construction was completed in the year 1989. The demand was raised in the year 2009 when certified copy for execution of the sale deed was applied. Both the Courts below have committed illegality and perversity in setting aside the said demand, in view of the candid admission of the plaintiff surfaced in the cross examination. Thus, urges this Court for formulation of the substantial questions of law as carved out in the memorandum of appeal.

I have heard learned counsel for the appellant-defendant and appraised the impugned judgments and decrees of the Courts below and of the view that completion certificate dated 27.01.1999 (Ex.P46) has been proved on record, whereby, the official of Improvement Trust endorsed that construction was completed in the year 1999. In view of the aforementioned fact, nothing prevented the Improvement Trust to raise the demand within relevant period and could not have sat over the matter for almost more than a decade in raising the demand. In my view, such demand is also ex facie time barred and not lawful.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

April 23, 2016
savita