

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

**C.M. NOS.4756-58 C OF 2015 &
R.S.A. NO.1748 OF 2015
DATE OF DECISION: JANUARY 19, 2016**

Mohinder Kaur and others

.....Appellants

VERSUS

State of Punjab through its Collector, Ludhiana.

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Gurcharan Dass, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.4756 C of 2015

Application is allowed.

**Exemption is granted from filing certified copy of the grounds
of appeal.**

C.M. No.4757 C of 2015

**In the present application, the applicant-appellants prays for
condonation of delay of 48 days in filing the appeal.**

**For the reasons mentioned in the application, which are duly
supported by an affidavit, delay of 48 days in filing the appeal stands
condoned.**

Application stands disposed of.

Challenge in this appeal is to the judgement and decree dated 03.05.2012 passed by the Civil Judge (Junior Division), Ludhiana, whereby the suit for declaration to the effect that the appellant-plaintiffs are entitled to allotment of land measuring 42 kanals and 16 marlas as detailed in the heading of the suit and for permanent injunction, restraining the defendant from allotting the said land to anybody else except the appellant-plaintiffs and for restraining it from dispossessing the appellant-plaintiffs, stands dismissed, appeal against which preferred by the appellant-plaintiffs has also been dismissed by the Additional District Judge, Ludhiana, on 15.10.2014.

It is the contention of learned counsel for the appellants that appellant-plaintiffs are entitled to the allotment of land in the light of the fact that their predecessors-in-interest were in possession of the land in dispute since the year 1970 and were paying the *lagan*. He contends that as per the policy of the respondent-defendant, the property was required to be transferred in the names of the appellant-plaintiffs, which having not done by the respondent-defendant, they are entitled to the declaration as prayed for. On this basis, prayer has been made for setting-aside the impugned judgements and decree and for allowing the suit of the appellant-plaintiffs.

I have considered the submissions made by learned counsel for the appellants and with his able assistance have gone through the impugned judgements but do not find any merit in the contentions as raised by him in the light of the fact that the appellant-plaintiffs and the witnesses, who had appeared in the witness box, have admitted in their cross-examination that possession of the suit property has been taken by the respondent-defendant

in the year 2002. The respondent-defendant has produced evidence, which has clearly established the ownership of the provincial government and transfer of the land in the ownership of PUDA. Now the land has also been shown to be under the Municipal Corporation. Even if the policy under which the claim is being sought to be made by the appellant-plaintiffs is said to be the one which would be applicable (for the sake of arguments alone), still the same cannot be made applicable to the case in hand as it is no more a rural land. Urban land, as per the policy, is not covered and, therefore, the claim of the appellant-plaintiffs cannot sustain firstly on the ground that they are not in possession of the land in question and secondly the notification under which they are putting forth their claim is not covering the land, which they are claiming to be allotted to them.

In any case, the Hon'ble Supreme Court in Jagpal Singh and others Vs. State of Punjab and others, 2011 AIR (SC) 1123 has held that illegalities cannot be regularized merely because the unauthorised occupation has subsisted for many years. It has further been held that all Government orders, permitting allotment of Gram Sabha land to private persons and commercial enterprises on payment of some money are illegal and should be ignored. Directions were issued to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Panchayat Gram Sabha land. The claim, as made by the appellant-plaintiffs, can neither sustain nor can it be accepted.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or

illegality in the same.

No substantial question of law is involved in the present appeal.

Therefore, finding no merit in the present appeal, the same stands dismissed.

Since the main appeal stands dismissed, C.M. No.4758 C of 2015 for restraining the respondent from taking forcible possession of the property in question is also dismissed.

**January 19, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**