

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2081 of 2015(O&M)
Date of decision : February 15, 2016

Haryana Urban Development Authority and another
..... Appellants
Versus

Tarsem Singh and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.D. Bawa, Advocate
for the appellants.

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

Amit Rawal, J (oral).
CM No.5428-C of 2015

This is an application under Section 5 of the Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 01 day in filing the appeal is condoned.

The application stands disposed of.

RSA No. 2081 of 2015(O&M)

The present appeal at the instance of HUDA challenging the concurrent finding of fact whereby the respondents-plaintiffs have been granted mandatory injunction for an allotment of

plot under the oustees quota.

Learned counsel appearing on behalf of the appellants-defendants submits that the civil court did not have jurisdiction, for the reason that respondents-plaintiffs have not obtained declaration from competent authority viz-a-viz occupancy rights being converted into tenancy, therefore do not fall within the definition of 'oustees' and thus, were/are not entitled to allotment of plot on acquisition of land. The courts below have failed to address such issue and, thus, there is illegality and perversity in the judgments and decrees of the courts below.

I have heard learned counsel for the appellants and appraised the paper book and am of the view that the aforementioned submissions of the learned counsel for the appellants do not have any substance and sans merit for the reason that the land acquisition Collector had already paid the compensation to the respondents-plaintiffs, at the rate, which the occupancy tenant is entitled to. As per Section 3 of Punjab Occupancy Tenants(Vesting of the Proprietary Rights) Act, 1952, a person is deemed to have acquired title and interest in the property, thus, under these circumstances, the land acquisition collector has assessed the compensation. The respondents-plaintiffs were found eligible for allotment of two 10 Marla plots.

It is a clear case of abuse of quasi power and act of extremism. In many cases HUDA indulges into litigation and drags affected party to the highest court without there being any substance in the case. The present case is a case of such type where HUDA

has chosen to file appeal without there being any substance, I am of the view that the officer concerned who has decided/opined to file appeal should be imposed with costs which is assessed as ₹10,000/-. The costs shall be paid by the concerned officer to the respondents-plaintiffs.

Keeping in view the aforementioned observations, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

February 15 , 2016
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