

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CRM-A-1903-MA of 2016 (O&M)
Date of decision: 01.02.2017**

Haryana State Pollution Control Board

..... Applicant-appellant

Versus

Anthony Jesudasan

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Loksh Sinhal, Advocate
for the applicant-appellant.

SURINDER GUPTA, J.(Oral)

Heard.

Haryana State Pollution Control Board filed complaint against respondent for the offence punishable under Section 15 of the Environment Protection Act with the allegation that he had constructed a Farmhouse bearing No. D-17 Ansal Golden Heights, Sohna, Gurgaon in violation of notification dated 07.05.1992.

The respondent took plea in defence that he had not raised any construction in violation of aforesaid notification. Farmhouse in question was constructed in the year 1990 or 1991 by Ansal Housing and Construction Ltd., a renowned construction company having its office at Barakhamba Road, New Delhi. This farmhouse was originally booked by Kamal K. Oswal and Vimal K. Oswal in the year 1991 and they paid entire consideration to Ansal Group. Farmhouse was then purchased by the respondent with Khela Naberjee and Chandak Banarjee in 1991 from Kamal

K. Oswal and Vimal K. Oswal. They further sold this farmhouse to Gayatri Butani and Mukesh Butani in October, 2008. A letter was also written to Ansal Group to substitute the name of Gayatri Butani and Mukesh Butani in place of the respondent as they have purchased the property.

After recording preliminary evidence, the trial Court discharged the respondent on grounds enumerated as follows:-

- (i) The complainant has not appeared as witness.
- (ii) A.E.E. Dinesh Yadav, who had inspected the spot, was not examined.
- (iii) No proof of construction raised by the respondent was produced and no spot inspect report was tendered in evidence.

Similar complaints were filed by applicant-appellant against several other persons, who were also acquitted on merit and in bunch of petitions which was taken up alongwith CRM-A-1109-MA of 2016 decided on 01.12.2016, it was observed that farmhouses were shown to be in existence prior to notification dated 07.05.1992 and consequently, on the date of notification the land was not '*Gair Mumkin Pahar*'.

Even in this case also, applicant-appellant has not been able to produce any evidence that construction was raised on the land after it was declared '*Gair Mumkin Pahar*' as per notification dated 07.05.1992.

Keeping in view above facts, I find no legal or factual infirmity in the order passed by trial Court calling for any interference. Application filed by applicant-appellant has no merit, as such, the same is declined.

CRM-34314 of 2016

Matter has been decided on merit, this application is relevant

only for the academic purpose. As the applicant-appellant has no case on merit, this application is also declined.

February 01, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No