

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

RSA No.1156 of 2014 (O&M)

Date of Order:10.11.2017

State of Haryana through its Collector, Kaithal and others

..Appellants

Versus

Smt. Kalawati and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravi Partap, AAG, Haryana
for the appellants.

Mr. R.S.Budhwar, Advocate,
for respondent nos.1 to 5.

ANIL KSHETARPAL, J (Oral)

Certain piece of land has been used by the State Government
for a public purpose, namely construction of a water channel.

Plaintiffs filed a suit for mandatory injunction seeking
directions to the State to hand over/restore back the aforesaid land.

The suit filed by the plaintiffs was dismissed. In appeal,
learned first appellate Court after finding that the land has not been
acquired, directed the State authorities to initiate the proceedings under the
Land Acquisition Act and pay compensation.

Even before me, learned counsel for the appellants along with
the revenue official have admitted that the land has not been acquired,
however, it has been submitted that the land is a common land and belongs
to a 'Patti'.

Once, it is admitted position that the land has not been

acquired, the State authorities had no justification to take over the land without payment of compensation to the owners. The learned first appellate Court has only directed the State authorities to initiate proceedings for compulsory acquisition of the land and after determining compensation pay the same to the owners. Whether plaintiffs are the owners or the Gram Panchayat is the owner or any one else is the owner shall be resolved by the learned District Judge, in an appropriate proceeding under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

In view thereof, there is no scope for interference in the order passed by the learned first appellate Court. The regular second appeal is dismissed.

C.M.No.13727-C-2017

In view of the aforesaid discussion, the application is disposed of in terms of the aforesaid judgment.

November 10, 2017
nt

(ANIL KSHETARPAL)
JUDGE

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