

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

**RSA No.4465 of 2017 (O&M)
Date of Decision: 18.09.2017**

State of Haryana through Collector, Sirsa and others

... Appellants

Versus

Hari Ram

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. M.D. Sharma, AAG, Haryana
for the Appellants.

ANIL KSHETARPAL, J. (ORAL).

The defendant-State of Haryana is in appeal against the concurrent finding of fact arrived at by the Courts below.

The plaintiff had filed a suit for mandatory injunction with the assertion that he and proforma defendants are owners of the land in dispute. It was claimed that the defendants have no right, title or interest in the suit property. It was also claimed that if the defendants want to utilise the land, the State government should acquire the same.

On the other hand, the defendants pleaded that a road was laid/built on the disputed land in the year 1971 and no one raised any objection. It was pleaded that this road was laid after due acquisition.

Both the Courts after appreciation of evidence, have recorded a finding of fact that the State of Haryana has failed to prove that the land owned by the plaintiff and proforma defendants was ever acquired.

Learned first Appellate Court has directed the State of Haryana to acquire the land in accordance with the provisions of the Land Acquisition Act or any other relevant law or instructions in force.

Learned counsel for the appellants could not produce before me any evidence to show that the land in dispute was ever acquired by the State of Haryana. He has submitted that since the road was laid in the year 1971, therefore, the suit filed by the plaintiff is barred by time.

I have considered the submission of the learned counsel for the appellants, however, I do not find any merit in the same.

The State of Haryana has no right to take away the land of an individual without acquiring the same. Owner would remain owner till he is divested of his title, in accordance with law. In the present case, the defendants have failed to prove the aforesaid fact. The plaintiff has only filed a suit for mandatory injunction. The Courts below have directed the State of Haryana to demarcate the land and acquire the same, in accordance with law.

In view of the above discussion, I do not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appellants have also filed CM No.11632-C of 2017 for condonation of 770 days delay in filing the appeal. It is pleaded in the application that the file remained pending with the officials for opinion as to whether it is a fit case for filing the appeal or not.

It is not disputed that the appellant had the knowledge of the

judgement passed by the Courts below. It is the duty of the officials of the State to ensure that the appeal is filed within the limitation.

The reasons given for seeking condonation of 770 days delay in filing the appeal are not found to be sufficient.

In view of what has been discussed above, the appeal as well as the application for condonation of delay of 770 days in filing the same are dismissed.

(ANIL KSHETARPAL)
JUDGE

18.09.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No