

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

RSA No.200 of 1989 (O&M)

Date of decision : 19.01.2018

State of Haryana and another

...Appellants

Versus

Mukandi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

The defendant-State is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court.

The plaintiffs had filed a suit for declaration with consequential relief of permanent injunction apprehending that State would auction the property. The defendant-State contested the suit claiming that the suit property is a evacuee property as defined in Administration of Evacuee Property Act, 1950. The parties were permitted to lead evidence. However, the defendant-State could not produce on file any Notification as required under Section 7 of Act of 1950. The First Appellate Court has further recorded a finding that in the present case, there is no issue of title. The First Appellate Court has further recorded a finding that all the witnesses produced by the State admitted that there is no record about this property before the year 1979. The suit was instituted on 11.02.1980.

The property became evacuee when resident having faith in Muslim religion migrated to Pakistan. Had the property been evacuee, there would have been some record with the State. However, no record was produced.

In any case, since the First Appellate Court has already recorded that there is no issue of title and hence the question of ownership is not being decided. It would be open to the State to initiate appropriate proceedings after establishing its right, title or interest in the property.

In view of the above, the present Regular Second Appeal is disposed of.

19.01.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No