

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

RSA No.2176 of 2010 (O&M)

Date of decision : 28.02.2018

Hardial Singh and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gurjinder Singh Thind, Advocate for the appellants.

Mr. Saurabh Girdhar, AAG, Haryana.

ANIL KSHETARPAL, J. (ORAL)

CM No.3261-C of 2018

For the reasons stated in the application, which is duly supported by an affidavit, application is allowed.

The appellants are permitted to deposit the amount within a period of one week from today.

Main Case

The plaintiffs-appellants are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court.

It is not disputed before this Court that the judgment passed by the Division Bench of this Court in LPA No.184 of 2004, titled as Subhash Chand and others Vs. The Financial Commissioner Revenue and others, decided on 24.12.2008, squarely covers this case against the appellants.

Learned First Appellate Court has also relied upon the detailed judgment passed by this Court in the case of Subhash Chand and others Vs. The Financial Commissioner, Revenue and others. This Court has examined Section 41 of the Transfer of Property Act, 1882 in detail in the context of fraudulent transfers obtained by the certain persons from the Government and claim of the subsequent purchasers based upon Section 41 of the Transfer of Property Act.

It is not in dispute in the present case that the plaintiffs-appellants claim to be the owner of the suit property on the basis of the sale deed executed by defendant No.4 on 08.04.1996. The allotment in favour of predecessor-in-interest of defendant Nos.5 and 6 was found to be erroneous obtained by mis-representation. The Court has noticed that predecessor-in-interest of defendant Nos.5 and 6 was not entitled to any additional allotment under the Displaced Persons (Compensation and Rehabilitation) Act, 1954. The Court has further noticed that the claim of Jumma Ram, predecessor-in-interest of defendant Nos.5 and 6 was already satisfied. The Court has noticed that once the claim of Jumma Ram stood satisfied, he was not entitled to any additional allotment.

Learned counsel for the appellants has vehemently submitted that against the judgment passed by this Court, the petition for Special Leave to Appeal (Civil) No.5545 of 2009 has been filed in which notice has been issued.

Learned counsel has relied upon the order dated 20.03.2009 passed by the Hon'ble Supreme Court, whereby notice was issued and status-quo with regard to the possession was ordered to be maintained.

In the considered opinion of this Court, mere pendency of the special leave petition is not a ground to stay the proceedings in the appeal. Decision rendered by the Hon'ble Division Bench as on today is binding on the Court. Unless, the judgment passed by this Court is reversed, this Court is required to follow the same. Hon'ble the Supreme Court has only ordered status-quo with regard to the possession. Such being the position, this Court does not find any good ground to interfere with the judgment passed by the learned First Appellate Court.

In view of the above, the present Regular Second Appeal is dismissed, in view of the detailed reasons given in the judgment dated 24.12.2008 passed by this Court.

All the pending miscellaneous applications, if any, are disposed of.

28.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No