

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1825 of 2015 (O&M)
Date of Decision: September 13, 2018

Smt.Lakhmiri Devi

.....Appellant

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Ajay Majithia, Advocate, for the appellant.
Ms.Shubhra Singh, Additional AG, Haryana.

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Surya Kant, J. (Oral)

The appellant approached this Court by way of a writ petition seeking mandamus to direct the State of Haryana and its authorities in the Forest and Police Departments to remove the alleged illegal construction/ encroachments made by respondent No.4 on the land which has been notified as 'Forest Land' under Sections 4 & 5 of the Punjab Land Reservation Act, 1900. A further direction was sought that the construction raised by respondent No.4 ought to be demolished. When the matter came up for hearing before the learned Single Judge, the writ petition was dismissed in *limine* with liberty to the appellant to approach the Civil Court.

The instant appeal was filed in the year 2015 and is pending since then as no reply has been filed by official or private respondents. We do not deem it necessary to keep the matter pending to await the reply, for the following questions can be effectively determined by the respondent-authorities:-

- (i) Whether the area/land where the 4th respondent is alleged to have raised construction is a notified 'forest land' and

whether non-agricultural activities are prohibited on that land? If so, what is the legal effect?

(ii) Whether any express permission was required and obtained by respondent No.4 for raising construction?

(iii) If question Nos.(i) & (ii) are answered in affirmative, whether the construction raised by respondent No.4 tantamounts to illegal and unauthorized construction? If so, why appropriate action in accordance with law and principles of natural justice has not been taken?

Let these questions be determined by the Divisional Forest Officer (Territorial) or any other Prescribed Authority who is competent under the statute or has been authorized by the State Government to determine these questions. It is clarified that we have not expressed any views on merits of the questions formulated above. Let the needful be done within a period of four months from the date of receiving a certified copy of this order. The appellant as well as respondent No.4 will be heard in the matter before taking any decision. The matter shall be decided by way of a reasoned order.

The appeal stands disposed of accordingly.

[SURYA KANT]
JUDGE

September 13, 2018
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(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No