

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

**RSA No.3472 of 2013 (O&M)
Date of Order: 19.09.2018**

Dayal Kaur

..Appellant

Versus

Director Urban Estate and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jhanji, Advocate,
for the appellant.

Mr. Saurabh Girdhar, AAG, Haryana

Mr. S.K.Mahajan, Advocate,
for the HUDA.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant is in the regular second appeal against the judgments passed by the courts below.

Plaintiff filed a suit for recovery of compensation of Rs.2,00,000/-, apart from Rs.1,70,000/- which was demanded on account of loss of income. Plaintiff's case is that 5 shops owned by him were illegally demolished by the officials of the Haryana Urban Development Authority. He claimed damages on account thereof.

Learned trial court dismissed the suit, whereas learned first appellate court on re-appreciation of evidence found that in fact 5 shops belonging to the plaintiff-appellant were existing in khasra no.10/23/2/1/ which was not part of the acquisition have been wrongly demolished. However, learned first appellate court still dismissed the appeal on the ground that Haryana Urban Development Authority has not been impleaded

as party-defendant.

It may be noticed that in the suit, plaintiff while impleaded Haryana Urban Development Authority, impleaded following officials:-

- “2. *Chief Administrator, Haryana Urban Development Authority, Panchkula.*
3. *Estate Officer, Haryana Urban Development Authority, Ambala City.*
4. *Junior Engineer, Haryana Urban Development Authority, Ambala City.*”

When the appeal came up before this court, the appellant moved an application for permission to amend the memorandum of parties and implead Haryana Urban Development Authority. The aforesaid amended memorandum of parties was taken on record.

It is not disputed before this court that Haryana Urban Development Authority, although, not impleaded as party-defendant, contested the suit through Chief Administrator, who heads the Haryana Urban Development Authority apart from Estate Officer was impleaded as defendant. In the considered view of this court, the error in the impleadment of Haryana Urban Development Authority as party-defendant was only a mistake which has now been corrected. Haryana Urban Development Authority has failed to show any prejudice caused on account of aforesaid mistake.

Keeping in view the aforesaid facts, this court is of the considered opinion that the matter be remitted back to the learned first appellate court to re-decide the appeal afresh after taking on record amended memorandum of parties. The first appellate court shall

independently re-decide the appeal without being influenced by the judgment passed on 04.05.2013.

In view thereof, the regular second appeal is disposed of accordingly.

Parties through their counsel are directed to appear before the learned first appellate court, on 01.10.2018.

September 19, 2018
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(ANIL KSHETARPAL)
JUDGE

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