IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116 **CM-6564-C-2018 in/and**
RSA-2485-2018 (O&M)
Date of Decision : 28.8.2018

State of Haryana through Collector, Yamuna Nagar and another

...Appellants

vs.

Jamil and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Dr. Sushil Gautam, DAG, Haryana
for the appellants.

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AJAY TEWARI, J. (Oral)

CM-6564-C-2018

For the reasons recorded, the application is allowed. Delay of 180 days in filing the appeal is condoned.

Main Case

Notice of motion.

Mr. R.P. Daaria, Advocate accepts notice on behalf of the respondents.

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit for mandatory injunction filed by the respondents.

Learned Deputy Advocate General on behalf of the appellants has argued that in paragraph No.7 of the judgment of the Appellate Court it was recorded that the Government Counsel had argued that Civil Court has

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no jurisdiction but the Appellate Court has not given any finding on this.

Learned counsel for the respondents has argued that infact this assertion was not consequential. He has very fairly accepted that no finding has been given by the Appellate Court on this issue though he has urged that I should examine this issue. In my considered opinion, that would not be appropriate. Once a point was raised before the Appellate Court it was incumbent upon him to give some finding thereon. In the circumstances, the matter is remitted back to the Appellate Court to decide the question of jurisdiction within three months. Parties though counsel are directed to appear before the District and Sessions Judge, Yamuna Nagar at Jagadhari on 17.9.2018. Since only one legal question has to decide the District and Sessions Judge, Yamuna Nagar at Jagadhari is given liberty to decide the case himself or send the matter to any other competent Judge. Till then the execution shall remain stayed.

The appeal stands disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No

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