

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

**RSA No.5476 of 2017 (O&M)
Date of Order: 16.08.2018**

Sandeep

..Appellant

Versus

**Haryana State through District Collector
Gurugram and others**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Chaudhary, Advocate, for
Mr. Suresh Kumar Kaushik, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

C.M.No.14540-C of 2017

Prayer in this application is for condonation of delay of 38 days
in filing the appeal.

For reasons mentioned in the application, which is supported by
an affidavit, the delay of 38 days in filing the appeal is condoned.

Application is allowed.

MAIN

Plaintiff-appellant is in the regular second appeal against the
concurrent findings of fact arrived at by the courts below while dismissing
the suit filed by the plaintiff for mandatory and permanent injunction,
mandating the State of Haryana and Municipal Corporation, Gurgaon (now
Gurugram) to execute the sale deed in favour of unauthorized occupants i.e.
plaintiff as per policy dated 16.10.2000 and 29.11.2000.

It is undisputed that the property is “Shamilat Patti” comprised in Khasra No.789.

Defendant-Municipal Corporation defended the suit and pleaded that the entire land was compulsorily acquired for developing Sectors 24 and 25, to be developed under the aegis of Haryana Urban Development Authority, which has not been made party. The Municipal Corporation also defended on the ground that there was no policy to sell any urban area concerned.

Learned trial court dismissed the suit on the ground that the plaintiff failed to fulfill the norms as provided in the policy. The first appellate court further found that the suit was filed in the year 2011, whereas the property in question fell within municipal limits in 2008 and the panchayat to whom this policy instructions were issued had already ceased to exist more than 3 years back.

Learned counsel for the appellant while referring to paragraph 6 of the plaint has submitted that in similar cases, certain civil courts have issued directions and the sale deed have been executed.

In the considered view of this court public property which has been acquired by the State for Haryana Urban Development Authority for development of a planned area, cannot be directed to be allotted to the unauthorized occupants through the agency of the courts while relying upon some previous instructions.

The argument of learned counsel that there is discrimination as some suits have been decreed, is just to be noticed and rejected because there could not be any negative discrimination. The first appellate court has further found that the Gram Panchayat had passed certain resolutions

seeking permission of the competent authority to sell the plots which has already been cancelled by the Deputy Commissioner in the year 2011.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

August 16, 2018
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(ANIL KSHETARPAL)
JUDGE

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