

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

RSA No.5616 of 2017(O&M)

Date of decision: 10.8.2018

State of Haryana and others

....Appellants

VERSUS

Chhabil Dass and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Indresh Goel, Additional Advocate General, Haryana
 for the appellants.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for injunction filed by the respondent/plaintiff that the appellants/defendants may be restrained from demolishing the house, interfere into peaceful possession of the plaintiff over the house constructed in a portion of plot No.321 comprised in khasra No.321 (1-1), depicted red in the site plan as per Jamabandi for the year 2005-06 situated at village Kharkhari, Tehsil and District Hisar and mandatory injunction directing the appellants to construct a wall shown with letters AB demolished illegally or to pay suitable compensation was partly decreed to the effect that the appellants/defendants have no right to interfere in peaceful possession of the plaintiff except in due course of law. The judgment and decree passed by the trial Court have been affirmed in appeal, preferred by defendants No.2 to 4.

The sole submission made by counsel for the appellants is that the present suit was filed by the respondent/plaintiff with a clear intent to stall process initiated by the authorities under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (applicable to State of Haryana) (in short 'the Act') regarding illegal encroachment over plot No.320, therefore, findings recorded by the Courts by exercising their discretionary jurisdiction in favour of respondent/plaintiff are liable to be set aside.

I have heard counsel for the appellants, perused the paper-book particularly the judgments impugned.

Apart from the fact that the appeal has been filed after a delay of 56 days, the appeal sans merit and liable to be dismissed.

The respondent/plaintiff filed suit only in respect of plot No.321 comprising khasra No.321 (1-1). The ejectment order under Section 7 of the Act has been passed in respect of plot No.320 and not in respect of plot No.321 comprising khasra No.321. The Gram Panchayat of village Kharkhari has not claimed any ownership right over plot No.321 comprising khasra No.321. As plot No.320 in respect of which proceedings under Section 7 of the Act were initiated is not a part of subject matter of suit instituted by Chhabil Dass, apprehension of the appellants that grant of injunction in favour of the respondent/plaintiff qua khasra No.321 would stall the process of eviction of the respondent from plot No.320 is misconceived and cannot constitute a ground to interfere in the consistent findings recorded by the Courts in respect of plot No.321.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

AUGUST 10, 2018		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no