

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

114

**RSA No.1482 of 2015 (O&M)
Date of decision : 11.02.2019**

Suresh Kumar and others

...Appellants

Versus

Puneet Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjiv Gupta, Advocate for the appellants.

Mr. Vivek Sakhun, Advocate for respondents No.1 to 6.

Mr. Rohit Aggarwal, Advocate for
Mr. Deepak Balyan, Advocate for respondents No.7 to 10.

ANIL KSHETARPAL, J.(oral)

Defendant-appellants are in regular second appeal against the judgment passed by learned First Appellate Court. A suit for injunction was filed restraining the defendants from raising illegal and unauthorized construction or interfere by opening doors and gates on the property which was claimed to be exclusive by the plaintiffs.

Learned trial Court dismissed the suit whereas the First Appellate Court has reversed the judgment. Fundamental dispute between the parties is “whether the property in dispute is part of street or not.”

During the course of hearing, it has been brought to the notice of this Court that the State of Haryana has passed an Act '*The Haryana Management of Civic Amenities and Infrastructure Deficient Municipal Areas (Special Provision) Act, 2016* (hereinafter referred to as 'the Act'). It has been brought to the notice of this Court that the property in dispute has been declared as civic

amenities and infrastructure deficient area vide notification dated 30.04.2018. According to the case of the defendant-appellants and in view of the aforesaid notification and the Act, the land in dispute would be used for public purpose and the plaintiffs cannot claim the property in dispute to be their exclusive property.

Learned counsel for the respondents, on the other hand, contends that the property in dispute has never been acquired by the State and therefore, no title has been passed.

Since the Act referred above and the notification have been issued during the pendency of this appeal, therefore, it would be more appropriate if the case is remanded back to the trial Court to re-decide the suit after keeping in view the aforesaid Act and the notification.

Parties through their counsel are directed to appear before the trial Court on 08.03.2019.

11.02.2019
sonia gugnani

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No