

**RSA-3779-2017 (O&M)**

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

**RSA-3779-2017 (O&M)  
Date of decision : 05.02.2019**

State of Punjab and others

... Appellants

Versus

Balkar Singh and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr .N.K. Banka, DAG, Punjab,  
for the appellants.

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**AMIT RAWAL, J. (ORAL)**

The appellants-defendants have not been successful in defending the suit of respondent No.1-plaintiff for declaration claiming to be owner of land measuring 07 kanals 18 marals with consequential relief of permanent injunction, which has been decreed by the trial Court and affirmed by the lower Appellate Court.

It was alleged that the plaintiff was the owner of land measuring 7 kanals 18 marals comprised of Rect. No.69, Kila No.24/1(3-6), Khasra No.101/4 (4-12), situated in Village Dila Ram, Tehsil and District Ferozepur and the land was never acquired by the defendants. The defendants wanted to forcibly dispossess the plaintiff and denied the ownership.

The defendants opposed the suit and taken the plea that the Punjab Government, vide Notification dated 22.02.1960 and 24.10.1960, acquired the land, even the award on 13.07.1961 was passed. Irrigation

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Department had already carved out the drain and the suit was not maintainable in view of the provisions of Section 30(G) of the Northern India Canal and Drainage Act, 1873 (in short 'the 1873 Act').

The plaintiff examined himself as PW1, Didar Singh as PW2, Boota Singh as PW3 and brought on record various documents (Ex.P1 to Ex.P19), whereas the defendants examined Baldev Singh Sandhu, SDO Drainage Department, Ferozepur as DW1 and brought on record Ex.D1 to Ex.D23.

Learned counsel for the appellants/State submitted that once the land was acquired, the suit was not maintainable as under the garb of declaration, acquisition proceedings cannot be challenged in civil court and the only remedy is to file the writ. The plaintiff had already been compensated in terms of money and the suit was liable to be dismissed in view of the embargo of Section 30(G) of the 1873 Act.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, notification brought on record in respect of acquisition acknowledging the same very village did not specify the killa number as well as the award. If at all, the compensation was paid, nothing prevented the appellants-defendants/State, to produce the accounts record from the concerned office of land acquisition regarding the disbursement. In the absence of the same, the Courts below had no occasion, but to decree the suit. Even before the lower Appellate Court, no attempt was made to place on record by additional evidence, much less, any material as well as before this Court. Having failed to rebut direct and corroborative evidence, I am of the view that there is no illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises

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for determination. However, the application seeking condonation of delay of 153 days in filing the appeal is also bereft of reasonable cause. Accordingly, the application seeking condonation of delay in filing as well as the second appeal are dismissed.

**05.02.2019**  
Yogesh Sharma

**( AMIT RAWAL )**  
**JUDGE**

Whether speaking/reasoned    **Yes/ No**

Whether Reportable            **Yes/ No**