

RSA- 825 of 2020 (O&M)
Date of Decision: 2.3.2020

**The Estate Officer, Haryana Urban Development Authority (Now
Haryana Shehri Vikas Pradhikaran), Karnal and others**

---Appellants

versus

Raj Kumar

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Arvind Seth, Advocate
for the appellants**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration, mandatory injunction and consequential relief of permanent injunction by challenging order of eviction dated 20.5.2013 and order dated 7.8.2013 passed by the appellate authority was decreed by the trial court vide judgment and decree dated 17.5.2016 that came to be affirmed in appeal filed by unsuccessful appellants-defendants.

The sole submission made by counsel for the appellants is that in the written statement filed by the defendants, a plea was raised that disputed plot was resumed vide order dated 28.4.1981 but despite that, the respondent-plaintiff did not challenge resumption order and as such suit challenging the eviction order passed by the Estate Officer, Haryana Urban Development Authority, Karnal and order passed by the appellate authority under the Haryana Urban Development Authority Act, 1977 can not be

maintained. In addition, it is argued that if the respondent-plaintiff challenges resumption order passed in the year 1981, suit filed in the year 2013 would be barred by law of limitation.

Counsel, in response to a query, would fairly inform that though a plea was raised in the written statement that resumption order has been passed but no such plea was raised that as the respondent-plaintiff has not challenged the resumption order, the instant suit to challenge the eviction order affirmed by the appellate authority is not maintainable, either before the trial court or the Court in Appeal. In this view of the matter, contention sought to be raised by the appellant in this regard is not sustainable. Since the order of eviction was passed in the year 2013 and suit has also been instituted in the year 2013 itself, the courts have rightly negated plea of the appellants that suit is barred by law of limitation.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, the application for condonation of delay is of academic relevance.

(Rekha Mittal)
Judge

2.3.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No