

In the High Court of Punjab and Haryana at Chandigarh

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RSA-2828-2018 (O & M)

Date of Decision: February 19, 2020

RITU GUPTA

.....APPELLANT

VERSUS

BABITA DEVI AND ORS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Ajay Jain, Advocate for the appellant.

ANUPINDER SINGH GREWAL, J (ORAL)

The appellant has challenged the judgments of the Courts below whereby the suit preferred by her for permanent and mandatory injunction restraining the defendants from raising any type of construction over the suit land has been declined.

The Appellate Court had partly allowed the appeal of the appellant to the extent that respondents/defendants No.3 and 4 will refund the costs of decreased area of 9 square meters of the plot allotted to the plaintiff within two months of the judgment, as per rules and prevailing rate, failing which the appellant/plaintiff would be entitled to interest at the rate of 9% per annum from the date of filing of the suit till its payment.

Learned counsel for the appellant contends that the allotment had been made to the appellant for a plot measuring 300 square metres and she had paid the price for the same but the area which had been allotted to her was 9 square meters less and, therefore, she was entitled to allotment of an alternative plot which was available.

Heard.

The appellant/plaintiff had been allotted plot No.180, Sector 6, Part 1, HUDA, Dharuhera, Rewari vide re-allotment letter No.1010 dated 01.10.2007. The possession of the plot had been handed over to her on 19.05.2010. The size of the plot was 12 x 25 meters = 300 square meters. The site plan of construction had been sanctioned vide memo No.1047 dated 28.05.2010. The possession certificate (Ex.PW-4/2) indicated that the plaintiff had taken possession of the plot and was fully satisfied with regard to the completion of the development works in the area. The appellant/plaintiff did not come forth to depose in the witness box despite adequate opportunities. The Appellate Court had sought report from respondent No.3 (HUDA) after measurement of all the plots in the lane numbering 174-P to 194-P. The Estate Officer and SDE of HUDA, Rewari had filed their affidavits along with the measurement report. In the report, it was stated that the actual area of the plot No.180 was 291.33 square meters with the plot size 11.70 x 24.90 meters. The area of the plots No.179 has been mentioned as 298.80 square meters while area of plot No.181 has been stated as 298.79 square meters which was also less by a few square meters. The Appellate Court had partly decreed the suit of the plaintiff by directing the respondents No.3 and 4 to refund the cost of the decreased area of 9 square meters of the plot within 02 months of the judgment as per rules and prevailing rate.

Furthermore the allotment had been made in the year 2007 while the appellant/plaintiff had been given possession in the year 2010. The appellant at the time of possession did not raise any objection with regard to the short fall of the area and the objection was raised after about five years. Therefore, I do not find any infirmity in the judgments of the Courts below.

Consequently, the appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

February 19, 2020
A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No