

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

Date of decision: 27.2.2020

1. **RSA No. 3534 of 2018(O&M)**

HUDA through its Administrator and anotherAppellants

VERSUS

Kanchan Bala and othersRespondents

2. **RSA No. 3590 of 2018(O&M)**

HUDA through its Administrator and anotherAppellants

VERSUS

Anup Suneja and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Piyush Bansal, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.9298-C of 2018

Prayer in this application is for condoning delay of 9 days in
filing the appeal.

Heard.

In view of averments made in the application supported by an
affidavit of Amardeep Jain, Estate Officer, HUDA, Faridabad, the

application is allowed. Delay of 9 days in filing the appeal stands condoned.

Disposed of accordingly.

RSA Nos.3534 and 3590 of 2018

This order will dispose of RSA Nos.3534 and 3590 of 2018 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from RSA No.3534 of 2018.

Smt. Kanchan Bala – respondent /plaintiff is indisputably in possession of shop No.4 towards southern side on the ground floor of SCO No.16-P, Sector 16, Faridabad measuring 20.47 square yards, allotted to Sh. Arvind Garg, Ms. Rekha Garg and Ms. Murti Devi (since deceased) by the Haryana Urban Development Authority (in short ‘HUDA’). The HUDA issued notice under Section 17(3) of the Haryana Urban Development Act, 1977 (in short ‘the Act’) directing the allottees to close shop No.4 towards southern side. However, no notice was issued to Smt. Kanchan Bala. The Appellate Court by relying upon judgments **Hindu High School Vs. State of Haryana, 1994 HRR 571** and **Brij Mohan Vs. Chief Administrator (FB), 1980 PLR 621** has held in concluding para of the judgment to the following effect:-

“As a result of above said discussion, the appeal in hand is accepted with costs and impugned judgment and decree dated 30.09.2016 is set aside. A decree for permanent injunction is passed in favour of plaintiff and defendants are restrained from dispossessing the plaintiff or demolishing the shop except in due course of law and defendant No.5 and 6 are

directed to give opportunity of hearing to the plaintiff before taking any action in respect of the suit property.”

Counsel for the appellant has not made any submission to contend that ratio laid down in **Hindu High School case** (supra) and **Brij Mohan’s case** (supra) is not applicable to the case at hand wherein the HUDA authorities have asked for closing of the shop in question, without notice to its occupant.

Counsel for respondents No.2 to 4/defendants No.1 to 3 in RSA No.3534 of 2018 would state that they have no grievance to express against directions issued by the Appellate Court that an opportunity of hearing is required to be given to the respondent/plaintiff, in the given circumstances.

In view of what has been discussed hereinbefore, finding no merit, the appeals fail and are accordingly dismissed in limine.

FEBRUARY 27, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no