

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

**RSA-3023-2019(O&M)**

**Decided on:-23.08.2023**

Haryana Urban Development Authority, now as HSVP ....Appellant...

vs.

Chatar Singh ....Respondent.

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Deepak Balyan, Advocate,  
for the appellant.

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**HARKESH MANUJA J. (Oral)**

**CM-8172-C-2019**

Prayer in this application is for condonation of delay of 58 days  
in refiling the appeal.

Having heard learned counsel for the applicant-appellant and  
gone through the contents of the application, duly supported by an affidavit,  
sufficient cause has been made out for the purpose of condoning the delay of  
58 days in refiling the appeal. Accordingly, the application is allowed. Delay  
of 58 days in refiling the appeal is condoned.

**Main case**

1. By way of present appeal, challenge has been laid to the  
judgments and decrees dated 04.03.2015 and 30.01.2017 passed by both the  
Courts below, whereby, suit for declaration with relief of mandatory  
injunction, filed at the instance of respondent-plaintiff, stands decreed.

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2. Briefly stating, respondent-plaintiff along with his family was residing in a Jhuggi situated in Sector 28, Faridabad, which came to be demolished at the instance of appellant-defendant. The respondent-plaintiff was found to be part of survey conducted at the hands of appellant, carried out for the purpose of allotment of alternate site to the jhuggi owners. In pursuance thereof, a sum of Rs.360/- as directed at that point in time was even deposited by the respondent-plaintiff on 23.10.1989, vide receipt No.3863, book No.40, with the present appellant, however, despite having accommodated number of other jhuggi owners, no allotment was made in favour of respondent-plaintiff, thereby, compelling him to file suit for declaration and mandatory injunction, seeking directions against the appellant for allotment of an EWS flat/alternate accommodation.

3. In pursuance to the notice, appellant-defendant appeared and filed written statement. While contesting the claim of the respondent-plaintiff, it was pleaded in the written statement that the 'jhuggis' in Sector 28 were demolished way-back in the year 1989 and the jhuggi owners were accommodated by making allotment of dwelling units in different areas of Sectors 3, 4, 7 and 8, Faridabad, however, respondent-plaintiff never came-forward to seek allotment.

4. The trial Court vide its judgment and decree dated 04.03.2015, decreed the suit in favour of the respondent-plaintiff. Aggrieved thereof, the appellant-defendant filed first appeal before the Additional District Judge, Faridabad, which came to be dismissed, vide judgment dated 30.01.2017.

5. Impugning the aforementioned judgments and decrees, learned counsel for the appellant submits that there was inordinate delay on the part

of respondent-plaintiff while approaching the Civil Court and thus, he was not entitled for any allotment. Still, fairly enough, learned counsel informs that the decree passed in favour of respondent-plaintiff, now stands satisfied before the Executing Court.

6. I have learned counsel for the appellant and perused the paper book.

7. Considering the fact that the decree passed in favour of poor jhuggi owner, who was displaced in pursuance to the removal of his jhuggi way-back in the year 1989 and was running after the authorities for seeking alternate allotment since long now stands satisfied, I do not deem it appropriate to interfere with the concurrent findings of fact recorded by the Courts below, particularly, in view of the fact that admittedly all other similarly situated jhuggi owners were accommodated by the appellant-defendants in different adjoining sectors and further, any interference, at this stage, merely on account of some delay on the part of respondent-plaintiff in approaching the Court may amount to discrimination.

8. Moreover, the present appeal has been filed with an inordinate delay of 541 days, whereas, from the contents of the application though supported by an affidavit, no sufficient cause is made out for condoning the inordinate delay in filing the appeal, which also compels this Court to restrain itself from interfering with the findings recorded by the Courts below.

9. Accordingly, in view of the discussion made hereinabove, finding no illegality and perversity in the judgments passed by the Courts below, the present appeal is hereby dismissed.

23.08.2023

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Yes/No

Yes/ No