

2023:PHHC:133554
**146 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-603-2021 (O&M)
Date of decision: 12.10.2023

Krishna Devi and others

....Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. S.L.Barwala, Advocate for the petitioners
Ms. Vibha Tewari, AAG, Haryana

ANIL KSHETARPAL, J (Oral)

1. The petitioners filed a suit for grant of decree of declaration to the effect that the show cause notices issued by the Government under Section 10 (2) of the Haryana Development and Regulation of Urban Areas Act, 1975 on 31.01.2000 and 25.06.2000 are illegal, null and void which is pending. The State Government has issued notices to the plaintiffs claiming that they have illegally and unauthorisedly colonized the area by carving out plots. Their application for grant of injunction restraining the defendants from dispossession has been dismissed by both the courts below. It has come on record that the entire agricultural land has been converted into an unauthorized colony and 40 sale deeds have been executed. Moreover, through the suit only, the validity of the show cause notice issued by the State is challenged in the suit. Thus, both the courts have found that the plaintiffs do not have prima facie case or balance of convenience in their favour.

2. Learned counsel representing the petitioner contends that the Court is required to grant injunction and at this stage the courts have erred in refusing the same.

3. On the other hand, the learned State counsel submits that the steps are being taken in accordance with the provisions of the Haryana Development and Regulation of Urban Areas Act, 1975 (hereinafter referred to as 'the 1975 Act').

4. This Court considered the submissions made by the learned counsel representing the parties. It has come on record that the suit property falls within 5 kms of the municipal area of Hisar and as per Section 2 (o) of the 1975 Act, the suit property falls within the Urban area. Moreover, before grant of temporary injunction, the Court is required to apply three tests; namely the prima facie case in the favour of the plaintiff, balance of convenience in favour of the party and irreparable loss and injury to the party that is likely to suffer if injunction is not granted. In this case, it has come on record that an unauthorized colony has been carved out. In these circumstances, no ground to interfere with the concurrent findings of fact is made out.

5. Hence, dismissed.

6. All the pending miscellaneous applications, if any, are also disposed of.

12.10.2023

rekha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE