

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 15.05.2023

101/1

RSA-2436-2012 (O&M)

Shimla Goel

.....Appellant

V/s

The Chief Administrator, HUDA, Panchkula and othersRespondents

RSA-1404-2011 (O&M)

Pooja Goel

.....Appellant

V/s

Chief Administrator and others

....Respondents

RSA-1405-2011(O&M)

Yash Pal Sharma

.....Appellant

V/s

Chief Administrator and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Amit Jhanji, Senior Advocate with
Ms. Priyanka Kansal, Advocate and
Mr. Kriti S. Avasthi, Advocate,
for the appellant in RSA-1405-2011.

Mr. Arihant Goyal, Advocate,
for the appellant(s) in RSA-2436-2012 and RSA-1404-2011.

Mr. Padamkant Dwivedi, Advocate, for the respondents.

VIKAS SURI, J. (Oral)

1. In these three connected regular second appeals, i.e. RSA-2436-2012 titled as *Shimla Goel vs. The Chief Administrator, HUDA, Panchkula and others*; RSA-1404-2011 titled as *Pooja Goel vs. Chief Administrator and others*; and RSA-1405-2011 titled as *Yash Pal Sharma vs. Chief*

Administrator and others, common issues are involved arising from similar factual matrix. With the consent of learned counsel for the parties, these appeals have been taken up together for hearing and adjudication by a common judgment. For the sake of convenience, facts have been referred from RSA-2436-2011 titled as *Shimla Goel vs. The Chief Administrator, HUDA, Panchkula and others*.

2. Learned senior counsel for the appellant(s) points out that on 13.04.2023, the following order was passed:-

"Learned counsel for the respondent seeks more time to complete instructions and file reply to CM-581-C-2023 in RSA-1405-2011, if necessitated.

Learned Senior counsel for the appellant submits that they were eight identically situated shops in a row out of which the respondents have accepted adjudication regarding five of them and the demolition notices have been withdrawn. The occupants of the remaining three shops are identically situated and cannot be differentiated, as such same relief deserves to be given to them.

At request of learned counsel for the respondent, adjourned to 15.05.2023.

Reply, if any, be positively filed well before the date fixed, failing which respondent No.2 to remain present in Court along with the relevant record to assist the Court and to point out the distinguishing factum, if any, with regard to occupancy of the adjoining shops by the appellants in these appeals.

To be taken up at the end of the urgent list.

A photocopy of this order be placed on the files of other connected cases."

2. Learned counsel representing the respondents (HUDA) submits that after passing of the aforesaid order in the present set of appeals, the impugned notice(s) dated 29.09.2019 has been withdrawn vide

communication dated 11.05.2023. A copy of respective order passed cases regarding the subject matter in each of these appeals has been filed in the Court, which are taken on record and a copy thereof furnished to learned counsel for the appellant(s).

4. The afore-noticed communication/orders dated 11.05.2023, withdrawing the impugned notice which is the subject matter of the civil suit, are on the same lines in all the cases. The relevant portion of the same reads as thus:-

"It is informed to you that it has been decided that aerial mapping of the various villages of Panchkula urban Estate may be got conducted from HARSAC, Hissar. Thereafter, the revenue authorities will conduct the demarcation. In view of the above, notice Dated 20.09.1999 issued is hereby withdrawn with immediate effect. Therefore, if any encroachment comes out on basis of said demarcation, then fresh notice will be issued and action as per law will be taken."

5. Learned counsel for the respondents submit that the appellants have now been placed at par with those in the earlier five cases referred to in the order dated 13.04.2023 passed by this Court. The appellants have to thus withdraw their respective suit that was filed, aggrieved by the notice dated 29.09.1999, which now stands withdrawn, as noticed above.

6. In the light of subsequent developments that have taken place during the pendency of the appeal before this Court and the above noticed submissions, learned senior counsel for the appellant(s) prays that the judgment and decree passed by the lower appellate court be set aside and the plaintiff-appellant(s) be permitted to withdraw their respective suits itself, as the impugned notice dated 29.09.1999 ceases to exist after passing of the

order dated 11.05.2023.

- 7. Heard learned counsel for the parties and perused the record.
- 8. In view of consensus arrived at by the learned counsel for the parties and the fact that the contentious notice dated 29.09.1999, since ceases to exist as communicated vide letter dated 11.05.2023, in all three suits from which these appeals arose, the prayer as noticed above is liable to be accepted. Accordingly, the instant appeals are partly allowed and resultantly, the judgments and decrees passed by the Courts below are set aside, in all three cases and the respective suit is ordered to be dismissed as withdrawn, as such.
- 9. Needless to observe that in case any subsequent action is initiated by the defendant-respondents on the basis of fresh demarcation that may be got conducted, as noticed in letter dated 11.05.2023 issued by the Estate Officer, HSVP, Panchkula and if any grievance arises out of such action, it would be open to plaintiff-appellants to take recourse to raise challenge thereto, in accordance with law.
- 10. The present appeals are disposed of in the aforesaid terms.
- 11. Pending applications, if any, also stand disposed of.
- 12. No order as to costs.

(VIKAS SURI)
JUDGE

May 15, 2023
vcgarg

Whether speaking/reasoned:	Yes
Whether reportable:	No