



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

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**RSA-6017-2019 (O&M)
Date of Decision : 10.12.2024**

KARAMJEET SINGH AND ANR Appellants

VERSUS

STATE OF HARYANA AND ANR Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Gurdeep Kaur, Advocate for
Mr. P.K. Ganga, Advocate for the appellants.

Mr. Pankaj Middha, Addl. AG Haryana for the respondents.

ALKA SARIN, J. (ORAL)

1. The present regular second appeal has been preferred by the plaintiff-appellants challenging the concurrent judgments and decrees dated 03.02.2017 and 27.11.2018 passed by the Trial Court and the First Appellate Court, respectively. The present appeal itself was filed after a delay of 231 days for which application being CM-17090-C-2019 has also been filed seeking condonation of delay.
2. Brief facts relevant to the present *lis* are that the plaintiff-appellants approached the Trial Court by filing the present civil suit on the ground that they are the residents of Village Budhabhana and owners in possession of 2/3rd share of land measuring 42 Kanal 10 Marla comprised in Khewat No.325 Khatuni No.384 Kittas 7 and 22 Kanal 16 Marla comprised in Khewat No.440 Khatuni No.521 Kittas 3. Plaintiff-appellant No.1 is the owner in possession of one-half share of 136/206 share and plaintiff-

appellant No.2 is owner in possession of 49/206 share of land measuring 10 Kanal 6 Marla comprised in Khewat No.580 Khatuni No.672 Kittas 3 and owners in possession in equal shares of 2/3rd share of land measuring 100 Kanal 3 Marla comprised in Khewat No.76, Khatuni No.98 Kittas 14 as per the jamabandi for the year 2007-08 situated in Village Budhabhana, Tehsil and District Sirsa. It was the pleaded case that the defendant-respondents had acquired a very small portion of land for the purpose of construction of *bandh* on both sides of Ghaghar River and it affected their remaining land also. A large piece of land situated between river and flood embankment was rendered useless. Plaintiff-appellants approached the defendant-respondents for paying the compensation, however, the same was refused. It was further the case that sand was removed from their land for construction of the *bandh* and now the level had gone down and the same was not cultivable and therefore compensation was sought.

3. In the written statement various grounds of limitation, estoppel, no cause of action, jurisdiction, concealment of material facts, were raised by the defendant-respondents. On merits it was stated that the land of the plaintiff-appellants was situated in Village Budhabhana, Tehsil and District Sirsa and the same was not acquired for construction of flood embankment and that no loss was caused to the plaintiff-appellants. It was further pleaded that similar suits were filed by other landowners which were decreed by the Trial Court, however, in an appeal preferred by the respondents-State therein, the same were reversed. The regular second appeal challenging the judgment and decree of the First Appellate Court was dismissed by this

Court vide judgment dated 22.09.2015. It was further the plea set up that the Government had acquired the land for construction of flood embankment of River Ghaghar Upstream Rewari Bathinda Railway Line from RD 25000-33000-L in Village Farwain, District Sirsa vide Gazette Notifications dated 30.04.1997 and 15.05.1997 and the plaintiff-appellants never raised any objections. It was further pleaded that the embankments were constructed on the request of Gram Panchayat Neza Dela Kalan as Ghaghar river water used to enter their village and fields. The loss of crop was compensated @ ₹1,200 per acre.

4. From the pleadings of the parties the following issues were framed :

1. Whether the plaintiffs are entitled for decree of declaration on the ground taken in the plaint ? OPP
2. Whether the plaintiffs are entitled to the decree for mandatory injunction on the ground taken in the plaint ? OPP
3. Whether suit of the plaintiffs is not maintainable in the present form ? OPD
4. Whether the plaintiffs have no cause of action to file the present suit ? OPD
5. Whether the plaintiffs have not come to the Court with clean hands and have concealed the true and material facts ? OPD

6. Whether the plaintiffs are estopped by their own act and conduct from filing the present suit ? OPD
7. Whether suit of the plaintiffs is hopelessly time barred ? OPD
8. Whether the suit of the plaintiffs is false and frivolous ? OPD
9. Relief.

5. The Trial Court dismissed the suit on merits as well as on the ground of being barred by limitation vide judgment and decree dated 03.02.2017. Aggrieved by the same an appeal was preferred by the plaintiff-appellants which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 27.11.2018. Hence, the present regular second appeal by the plaintiff-appellants.

6. Learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that due to the construction of the flood embankments the land of the plaintiff-appellants had been rendered useless and therefore they were entitled to compensation.

7. Learned counsel for the State has put in appearance on behalf of the respondents and pointed out that the Gazette Notification (Ex.D-1) pertains to the year 1997 and the present suit was filed in the year 2015 i.e. after a gap of almost 18 years. It is further the contention that similar suits were filed by other landowners which suits though were decreed by the Trial Court, however, the same were reversed by the First Appellate Court and the

findings of the First Appellate Court were upheld by this Court in a regular second appeal.

8. Heard.

9. In the present case the Gazette Notification (Ex.D-1) vide which the land was acquired for construction of the embankments on both sides of the river pertains to the year 1997 i.e. dated 30.04.1997. The present suit was filed in the year 2015 after a gap of almost 18 years from the date of issuance of the Gazette Notification (Ex.D-1). There is absolutely no cogent reason coming forth for having approached the Court after a period of 18 years. Further still, similar suits were filed by the other landowners which suits were decreed by the Trial Court vide judgment and decree Ex.D-3, however, the same were reversed by the First Appellate Court vide judgment and decree Ex.D-4 and the findings of the First Appellate Court were upheld by this Court in a regular second appeal vide judgment Ex.D-5. Even before this Court the present appeal has been preferred after a period of 231 days delay for which no cogent reasons are coming forth. The reasons given by both the Courts are sound and based upon proper appreciation of evidence and require no interference by this Court. No other point was argued.

10. In view of the above, no question of law, much less any substantial question of law, arises in the present case. The appeal as well as the application being CM-17090-C-2019 seeking condonation of delay, being devoid of any merit, are accordingly dismissed. Other pending applications, if any, also stand disposed off.

10.12.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*