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

RSA-3885-2019 (O&M)

Date of Decision : 17.02.2025

Shri Pala Ram & Ors

... Appellant(s)

Versus

Financial Commissioner, Haryana & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vikas Sonak, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the plaintiff-appellants challenging concurrent findings returned by the Trial Court vide judgment and decree dated 28.01.2015 and the First Appellate Court vide judgment and decree dated 21.12.2017.

2. Brief facts relevant to the present *lis* are that the plaintiff-appellants had filed the present suit seeking a decree for declaration to the effect that they were entitled to allotment of some other land in place of the land which had been allotted to them after being declared as surplus and to compensate the plaintiff-appellants for the loss/damages caused to them by allotment of disputed land. It was the case set up that one Shibu son of Shri Mathu resident of village Gudha was a big landowner and on 15.04.1963 he had 88 standard acres and 15 units of holdings and out of the said acres, 58 standard tors and 15 units of holdings were declared as surplus by the Collector Agrarian, Karnal in proceeding No.288 RA decided on 08.08.1960/06.01.1961, Goshawara No.308 Surplus Gudha, Tehsil and

District Karnal. This land became available being surplus and spare for allotment to an eligible tenant and it was open to the Collector to allot the same to any eligible tenant. The Collector Agrarian allotted the surplus land to the father of the plaintiff-appellants, namely, Mangat Ram being an eligible person. The father of the plaintiff-appellants was allotted five standard acres of agricultural land comprised in Rect. No.46 fully detailed in the plaint. The possession of the above said land was also delivered and a report regarding delivery of possession was also entered in the *Rapat Roznamcha*, Kanungo Halqa bearing Sr. No.276 dated 25.04.1964. It was alleged that the legal representatives of Shibu dispossessed the father of the plaintiff-appellants. Thereafter, a litigation between the plaintiff-appellants and the legal heirs of Shibu started and finally the entries in the *Rapat Roznamcha* bearing Sr. No.276 dated 24.05.1964 were declared as null and void and the plaintiff-appellants were not held entitled to the surplus land. It was further the case that the plaintiff-appellants had several times requested the department to allot an alternative land, however, the same had not been allotted. Hence, the present suit. On notice, the defendant-respondents filed a joint written statement raising various preliminary objections including jurisdiction of the Civil Court being barred under Section 26 of the Haryana Ceiling on Land Holdings Act, 1972. On merits it was stated that Shibu was a big landowner and his land was declared surplus by the then Collector (Agrarian), Karnal vide order dated 08.08.1960. The legal representatives of the plaintiff-appellants filed many applications before various authorities, but they were not found entitled for their claim anywhere. They had also received back the amount they had deposited in 10 installments for the land.

It was further averred that the plaintiff-appellants were not eligible for the allotment of the land. It was further the stand taken that the plaintiff-appellants had never approached the Department for allotment of any land. Replication was filed. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the Collector Aggrarian allotted the surplus land to the father of the plaintiff-appellants namely Shri Mangat Ram, as detailed and described in para No.2 of the plaint. If so to what effect ? OPP
2. If issue No.1 is proved, then whether the plaintiff-appellants are entitled for a decree of declaration ? OPP
3. Whether this court has got no jurisdiction to try and entertain the present suit, in view of the Section 26 of Haryana Ceiling of Land Holdings Act ? OPD
4. Whether the present suit is bad for want of notice as envisaged u/s 80 CPC ? OPD
5. Whether the plaintiff-appellants are not at all eligible for the allotment of land. If so to what effect ? OPD
6. Relief.

3. The Trial Court vide judgment and decree dated 28.01.2015 dismissed the suit. Aggrieved by the same an appeal was preferred before the First Appellate Court which appeal was also dismissed vide judgment and decree dated 21.12.2017. Hence, the present regular second appeal alongwith an application (**CM-10471-C-2019**) for condonation of delay of 412 days in filing the appeal.

4. Learned counsel for the plaintiff-appellants would contend that both the Courts have erred in dismissing the suit. It is urged that the

forefather of the plaintiff-appellants had been allotted the land earlier and subsequently it was embroiled in litigation and hence they were entitled to an alternative plot.

5. I have heard the learned counsel for the plaintiff-appellants.

6. In the present case, earlier the land owned by Shibu was declared surplus, however, later on the same was declared to be a non-surplus land. Both the Courts concurrently found that the plaintiff-appellants had failed to prove that they had any right or claim over the land in dispute. In the present case the plaintiff-appellants have not challenged the order whereby the order declaring the land surplus was set aside but had approached the Civil Court on the ground that the land had been declared surplus, however, the same being embroiled in litigation the plaintiff-appellants should be allotted some other piece of land. The learned counsel for the plaintiff-appellants has not been able to show as to how without challenging the subsequent order whereby the earlier order declaring the land surplus was set aside, the plaintiff-appellants had any right, title or interest to even demand that any land be allotted to them. It has further been held by both the Courts that there was not an iota of evidence led by the plaintiff-appellants to show that the Department had any surplus land which they were entitled to. In the absence of any such evidence, no fault can be found with the judgments and decrees passed by both the Courts. Even on the grounds of delay, there is a delay of 412 days in filing the appeal for which no cogent reason is forthcoming.

7. In view of the above, no question of law, much less any

substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.02.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO