

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7448 OF 2003

STATE OF HARYANA & ORS.

.....

APPELLANTS

VERSUS

KULBHUSHAN & ORS.

.....

RESPONDENTS

O R D E R

We have heard the learned counsel for the parties. We find that the High Court has given a positive finding confirming the judgment of the courts below that the mandatory provision of Sections 4 and 5 of the Punjab Scheduled Roads and Controller Areas (Restrictions of Unregulated Development) Act, 1963 had not been complied with. The High Court also observed that as the factum as to whether the notice had been served or not was a question of fact and not that of law and dismissed the Regular Second Appeal on that basis. At the time of arguments today, it has been pointed out by the learned counsel for the appellant that it would be appropriate under the circumstances that the appellants be given liberty to pursue the remedies against the respondents as per the provisions of the aforesaid Act.

We find merit in this plea. We leave it open to the appellants to pursue the remedies as per the Act.

With this modification in the judgment under appeal, the appeal is dismissed.

No order as to costs.

.....J
[HARJIT SINGH BEDI]

.....J
[K.S. RADHAKRISHNAN]

NEW DELHI
MAY 06, 2010.



JUDGMENT