

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 44 of 2007 (O&M)
Date of Decision: 08.09.2015

Bhakra Beas Management Board and others

..Appellants

Versus

Dr. Pritam Singh Bajaj and another

..Respondents

**CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Munish Bhardwaj, Advocate, for the appellants.
Mr. Pritam Saini, Advocate, for respondent No.1.
Mr. Nitin K.Vasudeva, Advocate, for respondent No.2.

S.J.VAZIFDAR A.C.J. (Oral)

This is an appeal against the order and judgment of the learned Single Judge dated 11.12.2006 to set-aside the order of the appellants rejecting the first respondent's claim for grant of a lease in respect of a property in his occupation and directing the appellants to grant the first respondent i.e. the original petitioner the benefit of a policy decision dated 30.10.1995 by entering into a fresh lease-deed with him in respect of an area admeasuring 300 sq. feet being a shop and a Verandah in his possession as per the plan produced by the appellants.

2. We intend setting aside this order and judgment only on the ground that respondent No.2, who is the widow of one Bhagat Ram who was the original allottee of the entire property, was not impleaded in this petition filed by the first respondent. The impugned order, therefore, was passed in her absence. Respondent No.2 is vitally affected by the order. It is, therefore, necessary to state the facts only briefly.

3. On 03.09.1954, a plot of land admeasuring 835 sq. feet was leased out to the said Bhagat Ram (the deceased). The deceased constructed a building on the said plot. He died in the year 1974 leaving behind inter-alia his widow Smt. Gayatri Devi-respondent No.2. Respondent No.2 sub-let a portion of the property admeasuring 300 sq. feet to respondent No.1 (original petitioner). According to her, she did so to provide her a source of income in view of the death of her husband the said Bhagat Ram.

4. On 20.09.1977, the appellants transferred the lease in favour and in the name of respondent No.2.

5. The appellants served a show cause notice dated 14.02.1994 upon respondent No.2 calling upon her to show cause why the lease ought not to be terminated and possession of the property be not taken over on account of her having illegally sublet a part of the property to respondent No.1. The show cause notice was issued under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as 'the PPE Act').

6. On 23.09.1994, the appellants terminated the lease and called upon the respondents to handover the possession of the premises to them. A case was filed by the appellants before the Estate Officer against both the respondents. The Estate Officer by an order dated 01.02.2006 directed both the respondents to vacate the premises within one month and to handover the possession thereof to them and to pay damages for the unauthorized possession and occupation of the premises from the date of cancellation of the lease dated 23.09.1994 till the date of the actual vacation of the property.

The order of the Estate Officer was challenged by respondent No.1 by filing an appeal under Section 9 of the PPE Act and that appeal is pending. The 2nd respondent's appeal against the aforesaid order was

dismissed. The 2nd respondent challenged the order of the Appellate Authority by filing Civil Writ Petition No. 778 of 2009 which is pending in this Court before the learned Single Judge.

7. Thus, as on date the first respondent's appeal against the order of the Estate Officer and the 2nd respondent's writ petition against the order of the Appellate Authority under the PPE Act are pending.

There is yet another proceeding which is between the respondents inter-se. Respondent No.2 initiated eviction proceedings against respondent No.1 before the learned Rent Controller and the same was allowed and an ejectment order has been passed against respondent No.1. Respondent No.1 challenged the same before the Appellate Authority in terms of filing an appeal which has also been dismissed. Thereafter, respondent No.1 filed a Civil Revision No. 5068 of 2015 against the order of the Appellate Authority which is pending before the learned Single Judge of this Court.

8. Thus, as on date, the Civil Revision Petition filed by respondent No.1 against respondent No.2, and Civil Writ Petition No. 778 of 2009 filed by respondent No.2 against the appellants are pending before the learned Single Judge and the first respondent's appeal against the order of the Estate Officer is pending before the Appellate Authority.

9. This petition was filed in the year 2000 for the reliefs which have been granted by the learned Single Judge and which we referred to at the outset. There can be no doubt that the order seriously affects the rights of respondent No.2 as alleged by her. If the impugned order is allowed to stand, it would prejudice the proceedings for eviction filed by respondent No.2 against respondent No.1. It would also affect the writ petition filed by respondent No.2 against the order of the Appellate Authority under the PPE

Act at least to the extent of 300 sq. feet claimed by respondent No.1. The first respondent, therefore, ought to have impleaded the widow i.e. respondent No.2 in this writ petition filed by respondent No.1 against the appellants. It would be unfair to respondent No.2 to have the proceedings decided in her absence.

10. In the circumstances, the impugned order is set-aside. The matter is remanded to the learned Single Judge only to enable respondent No.2 also to be represented. Smt. Gayatri Devi-respondent No.2 is, therefore, directed to be impleaded as a respondent to this writ petition. It is desirable that Civil Writ Petition No. 778 of 2009 and the Civil Revision Petition No. 5068 of 2015 are heard by the same learned Single Judge. This order, however, does not affect the rights of the appellants, if any, to recover the arrears or otherwise.

Office shall obtain appropriate orders accordingly.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

08.09. 2015
'ravinder'

(TEJINDER SINGH DHINDSA)
JUDGE