

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2081 of 2014 (O&M)
Date of Decision.04.12.2015

Narinder Singh son of Mohan Singh

.....Appellant

Vs.

Municipal Council, Tarn Taran and others

.....Respondents

Present: Mr. Sandeep Singh Deol, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The appeal is at the instance of the plaintiff who filed the suit for injunction on the basis that he was the tenant from Municipal Committee in respect of the shop and that the attempt of the PWD through defendant Nos.3 and 4 to eject him out of the property by resort to the order obtained under the Public Premises Act was not valid. The contention in defence was that the plaintiff had filed the suit against defendant Nos.3 and 4 earlier in Civil Suit No.85 of 1999 for the relief of injunction and the suit was dismissed after contest. The appeal filed by him was also dismissed. In the second appeal by the plaintiff, the plaintiff did not seek for adjudication on merits and withdrew the suit reserving to himself a right to file suit on the basis that he was the tenant in respect of the property. The Court held that the procedure initiated by the plaintiff earlier and his inability to sustain the relief of injunction against the defendant resulting in dismissal of the suit would

constitute res judicata against the plaintiff. As regards the contention that the property was taken on rent from the Municipal Committee, defendants No.3 and 4 were able to bring on record, proof of the fact that the property had been demarcated and the property was found to be a property vesting in the Government and therefore, as paramount owner, PWD was entitled to ignore any case of lease granted by the Municipal Committee. The plaintiff could not have secured any independent right to hold on to possession of the property by reference to the lease from the Municipal Committee, if the action was brought at the instance of the PWD and it was able to establish its own right over the property and demarcation made and produced before the Court.

2. Even apart from the fact that the plaintiff could not have maintained an action for injunction against the PWD by virtue of the earlier decision rendered against the plaintiff against the very same party, there was actually a bar to the plaintiff's case when a statutory remedy for an appeal which was an efficacious remedy against the proceedings under the Public Premises Act had not been availed of by the plaintiff. If the plaintiff would suffer an adverse decision, the Civil Court will have no jurisdiction unless it was on a cause of action that the order was by an officer who was incompetent or the proceedings were taken before the Forum which had no inherent jurisdiction to entertain a case. There had been no such fallibility about the manner in which the proceedings were taken against the plaintiff and the order of ejectment obtained against him under the Public Premises Act could not, therefore, be a subject of judicial review through an independent suit.

3. The dismissal of the plaintiff's suit by the Courts below under the circumstances was perfectly justified and I will find no reason for making an interference with the same. The second appeal is devoid of merit and it is dismissed.

(K. KANNAN)
JUDGE

December 04, 2015
Pankaj*