

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

RSA No.2488 of 2014 (O&M)
Date of Decision.15.09.2015

Ram Chander

.....Appellant

Versus

Union of India and others

.....Respondents

Present: Mr. Animesh Sharma, 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. Delay of 25 days in refiling the appeal is condoned.
2. The appellant, who is reported to be 101 years old, is still young at heart to fight a litigation, for, it requires enormous doggedness to fight litigation for any person in India. For a person of 101 years old, I have allowed an audience only because of the tenacity exhibited by the party through counsel.
3. The petition for action for ejectment was taken under the Public Premises Act by the respondent in respect of the property held on lease by the plaintiff-appellant but continued in possession beyond the terms of lease. The property which situate in Ambala Cantt. area was stated to be required for defence purposes. The plaintiff joined issue on the requirement as pleaded by the respondent and referred to a Circular dated 28.08.1973 that he should be granted at least an alternative property. The respondents declined such consideration and the

proceedings were taken on consideration of whether the plaintiff was in unauthorized possession or not. The order of ejectment which was passed by the Estate Officer was affirmed by the District Judge as Appellate Authority and confirmed again at the High Court as well as at the Supreme Court.

4. After the SLP was disposed of by the Supreme Court, an application for review had been filed in review application No.755 of 1994 that the Government had suppressed the instructions issued by the Government of India on 28.08.1973 allowing for the continuance of possession of Ex-serviceman. The Court dismissed the review application but still held that it will be open to the plaintiff to put the instructions to use for relief in appropriate forum. The plaintiff took this to afford to him a fresh lease of life for litigation and filed a fresh suit. It was again resisted on the ground that the plaintiff very well knew about the instructions and it was specifically brought forth in response to a notice issued prior to the eviction action. The consideration had been under the instruction also and it was found that the plaintiff was not entitled to the benefit. The Court was, therefore, holding that the plaintiff very well knew about these instructions and there had been no suppression to find a fresh cause of action for institution of the proceedings.

5. The trial Court dismissed the suit holding that there had been no suppression and the plaintiff's case does not make reconsideration on the so-called right flowing under the instructions. The Appellate Court affirmed the same. The second appeal is brought for consideration essentially on whether the orders passed already directing ejectment in the proceedings under Public Premises Act that

stood confirmed upto the Supreme Court could be reopened on the alleged suppression of the materials relating to the instructions. The point has been dealt with already and explained through the narration of facts above. I am also informed that the plaintiff had actually lost possession when the respondent put the order obtained under Public Premises Act to execution and the property was lost to the plaintiff even in the year 1994. I do not mean to therefore take up the case for reappraisal in second appeal. The judgments of the Courts below are confirmed. The second appeal is dismissed.

(K. KANNAN)
JUDGE

September 15, 2015
Pankaj*