

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

**Regular Second Appeal No.3655 of 2014 (O&M)
Date of Decision: November 30, 2015.**

Hazari Lal

.....APPELLANT.

VERSUS

Chandigarh Administration Through its Finance Secretary & another.

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Roshan Lal Sharma, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This Regular Second Appeal has been filed against the concurrent judgments of the Courts below whereby the suit filed by the appellant-plaintiff seeking the relief of mandatory injunction directing the defendants to give effect to office order No.251/1993 dated 2nd September, 1993 and enter the name of the appellant-plaintiff as co-allottee in the allotment of tenement No.451, Sector 29-B, Chandigarh, in lieu of Jhuggi No.58 in the erstwhile Labour Colony No.3, Industrial Area, Phase-I, Chandigarh was dismissed.

2. The contention of the plaintiff, in brief, is that he was living in Jhuggi No.58, Colony No.3, Sector 30, Chandigarh, where he had accommodated his relative Mohan Lal, on eviction from the house where he was living at that time. However, while uprooting the jhuggis, a mistake

took place and name of the plaintiff was not included in the list of oustees. In the application submitted by Mohan Lal, in lieu of allotment of Jhuggi No.58, name of plaintiff was mentioned as friend living with Mohan Lal. On coming to know of the fraud, the plaintiff made representations to the concerned authorities. As house No.451 was allotted in the name of Mohan Lal, he dispossessed him forcibly and plaintiff had to file a suit for injunction, which was, however, dismissed. Thereafter, the plaintiff has been representing the defendants to give effect to the order dated 2nd September, 1993, entering the name of plaintiff as co-allottee in tenement No.451, Sector 29-B, Chandigarh, but of no effect, hence this suit.

3. In the written statement, Chandigarh Administration took the plea that the order dated 2nd September, 1993 has already been declared as illegal by the Court in the earlier litigation. In the earlier suit filed by him, it was held that the plea of the plaintiff to give effect to the order dated 2nd September, 1993, had no merits.

4. House No.451, Sector 29-B, Chandigarh, was allotted in the name of Babu Ram, Mohan Lal and Sohan Lal. In the earlier suit filed by the plaintiff, the allotment was under challenge. The first Appellate Court has made reference of earlier suit in paras 24 and 25 of the judgment and observed as follows:-

“24. After appreciating all these facts; the court of Sh.Sanjeev Kumar, the then learned SJIC, Chandigarh held that “ it is highly astonishing how the plaintiff was made co-allottee vide letter Ex.P5 when the authority of Administration has no where recommended the making of the plaintiff as co-allottee in the house in question and

further held that moreover, there is nothing on the record to show that the defendants were heard prior to making the plaintiff as co-allottee in the house in question which is certainly denial of right of hearing to the defendants. It is not understandable as to how the plaintiff was made a co-allottee without hearing the defendants, who were the allottees of house in question vide letter Ex.D.1. The conduct of the Estate Officer is highly depreciable because when the case was pending in the Civil Court, then the Estate Officer should have rescued itself from making any inroad into this controversy of this allotment and that too without any basis. In these circumstances, letter Ex.P5, whereby the plaintiff has been made a co-allottee, can be easily ignored considering that the same is nonest in the eyes of law.” This view was affirmed by the Court of Shri R.C. Godara, Additional District Judge, Chandigarh while dismissing the appeal against the same.

25. In the present suit also; the plaintiff has again sought the relief on the basis of letter dt. 2.9.1993 that according to this letter; he is a co-allottee in tenement No.451 Sector 29-B, Chandigarh in lieu of Jhuggi No.58 and a direction be given to the Estate Officer, Chandigarh to give effect to this letter.”

5. It is apparent from the above observations that the Court has come heavily on the functioning of Estate Office, Chandigarh and has denounced the inclusion of name of plaintiff as co-allottee. The relief claimed by the appellant-plaintiff in the instant suit is also similar, as such, was rightly declined by the Courts below.

6. On the perusal, I find no legal or factual infirmity in the judgment under appeal, calling for any interference.

7. No substantial question of law requiring determination arises in this appeal, which has no merits.

8. Dismissed.

November 30, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE