

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.2778 of 2011 (O&M)

Date of decision:06.09.2016

Punjab Urban Development and Planning
Authority (now GLADA) and another

... Appellants

Vs.

Vantia Jain

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr.Balwinder Singh, Advocate
for the appellants.

Mr. J.S.Lalli, Advocate
for the respondent.

AMIT RAWAL J.

The appellants – Punjab Urban Development and Planning Authority (now GLADA) are aggrieved of the concurrent findings of facts and law, whereby, suit for permanent injunction restraining the defendants, either themselves or through their agents, servants, attorneys, employees etc. from interfering into peaceful possession of the plaintiff except in due course of law, has been decreed.

Mr. Balwinder Singh, learned counsel appearing on behalf of the appellants submits that the respondent-plaintiff was allotted MIG Flat No.1074, first floor, Sector 32-A, Samrala Road, PUDA Colony, Ludhiana, vide allotment letter No.366A dated 30.03.1996. The condition of allotment envisage the payment of premium on installment basis @ Rs.4611/- per month and the possession thereof had been delivered on 29.10.1996. It was clearly mentioned in the advertisement that the allottee of first floor would

be entitled to cover an area of 32.25 square yards in future. However, the respondent had covered the said area at the time of taking the possession in 1996 and she had no locus standi to file the suit as it was found that she was living somewhere else and her attorney Harminder Singh Bhatti had no authority to file the same. He further submits that as per Clause No.11 of the allotment letter, the ownership of the dwelling flat would continue till the whole consideration money and all other dues are finally paid. In fact, it is well known fact that unscrupulous allottees in such cases have been selling their flats on the basis of Power of Attorney and also by executing a Will and an Indemnity Bond and cause loss of revenue to the State. Neither the original allottee nor the occupant had applied for transfer of the house to the appellant. There is gross violation of Clause no.11 of the allotment letter owing to illegal construction/violation which is not as per the approved building plan. The violation as per the policy is non-compoundable. It is in this background of the matter, action has to be taken and the respondent-plaintiff chose to file suit. All these facts have not been taken into consideration by the Courts below.

Per contra, Mr. J.S.Lalli, learned counsel appearing on behalf of the respondent-plaintiff submits that it is a simpliciter suit for injunction, whereby, the appellants have been restrained from interfering into peaceful possession, much less, dispossession except in due course of law. If at all, there is violation, nothing prevented the appellants to take action in accordance with law with a liberty to the respondent-plaintiff to take appropriate legal action but not in the manner and mode as has been adopted.

I have heard learned counsel for the parties and appraised the judgments and decrees of the Courts below and of the view that injunction granted is most innocuous. It is a conceded position on record that the respondent-plaintiff had been allotted a flat and is in possession of the same. No person, who is in long and settled possession, can be dispossessed except in due course of law. This view of mine is supported by the ratio decidendi culled out by the Hon'ble Supreme Court in **Rame Gowda (D) by LRs vs. Mr. Varadappa Naidu (D) by LRs and another 2004(1) SCC 769**. If at all, there had been any violation, nothing prevented the appellants-GLADA to take action in accordance with law, if so permits. It is strange that such an innocuous injunction has been challenged before the Lower Appellate Court and in this Court also in the absence of setting up of any counter claim.

For the foregoing reasons, I do not intend to differ with the concurrent findings which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

September 06, 2016

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No