

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

RSA No.2959 of 2011 (O&M)

Date of decision:13.05.2016

Housing Board, Sector 15 (LIC) Panchkula
and another

... Appellants

Vs.

Vishal Jaiswal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Ashwani Talwar, Advocate
for the appellants.

Mr. J.S.Bedi, Advocate
for respondent No.1.

Mr. Pritam Saini, Advocate
for respondents No. 2 and 3.

AMIT RAWAL J. (Oral)

Appellant-plaintiffs are aggrieved of the dismissal of the suit seeking declaration that defendant No.1-Vishal Jaiswal is in illegal possession of Public Utility Booth, Sector 15, Panchukula and inclusion of his name in clause no.8 of allotment letter dated 09.05.1991 is illegal, void, ultra vires, much less, being not physically handicapped and cannot enjoy the property for the infinite period.

Mr. Ashwani Talwar, learned counsel appearing on behalf of appellant-plaintiffs submits that in every sector, HUDA had made a provision of Public Utility Booth and the terms and conditions of the

allotment letter envisage the allotment of the public booth to a particular person for running STD/PCO, but now business aforementioned, has stopped and booth in question is used for other purposes. HUDA has not taken any action which compelled the society to file the suit as duty has been imposed to maintain the aforementioned booth. Defendant No.1 is an influential person as enjoying the patronage of the society being related to President and therefore, HUDA is also not inclined to interfere. All these aspects are required to be examined for adjudication of the lis. Having failed to do so, the judgment and decree of the trial Court came to be passed. Appeal filed against the same also dismissed which suffers from illegality and perversity, much less, substantial question of law arises for adjudication of the present appeal.

Mr. J.S.Bedi, learned counsel appearing on behalf of respondent No.1 submits that allotment letter specifies the name of the person, who, had locus standi to institute the suit. That being not so, the suit has rightly been dismissed. He further submits that no substantial question of law arises for adjudication of the present appeal. He further submits that even Society did not adhere to the terms and conditions of the letter by not raising the construction, whereas, it was also done at the costs of defendant No.1. Even suit has not been instituted by the Secretary of the society and rightly so, the same has been dismissed on this ground as well. He further submits that no substantial question of law arises for adjudication of

the present appeal.

Mr. Pritam Saini, learned counsel appearing on behalf of respondents No.2 and 3 submits that HUDA would take appropriate steps as per the terms and conditions of the allotment letter to call upon the concerned allottee to adhere to the terms and conditions of allotment letter but the plaintiffs did not have any locus standi and therefore, the suit has rightly been dismissed.

I have heard learned counsel for the parties and appraised the judgments and decrees of the Courts below and of the view that appellant-plaintiffs did not have any locus standi to institute suit as the terms and conditions of the allotment letter specifically provided that booth property would be allotted and run by defendant No.1. In case, defendant No.1 did not adhere to the terms and conditions of the allotment letter, HUDA is not precluded in law to take action in accordance with law. In my view, the suit has rightly been dismissed as the terms and conditions of the allotment letter are sacrosanct. Mr. Pritam Saini, has given assurance to the Court that HUDA shall take appropriate steps, if any, in case, it is found that defendant No.1 is not adhering to the terms and conditions of the allotment letter.

It is expected that said assurance shall be executed in the letter and spirit. Liberty is granted to the plaintiffs to move an appropriate application in case there is any defiance to the undertaking.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the Regular Second Appeal is disposed of in the aforementioned terms.

(AMIT RAWAL)
JUDGE

May 13, 2016
savita