

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1206 of 2012 (O&M)
DATE OF DECISION: September 23,2016

Ram Murti

...Appellant

versus

Dhoop Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Rajinder Goyal, Advocate for the appellant.
Mr.Arvind Bansal, Advocate for respondents No.1
and 2.
Mr.Sandeep Punchhi, Advocate for respondent
No.4.

AMIT RAWAL, J.

CM No.3211-C of 2012

For the reasons given in the application, delay of 47
days in filing the appeal is condoned.

Main case

The appellant-plaintiff is aggrieved of the judgment
and decree rendered by the lower Appellate Court, whereby the
suit for possession and permanent injunction has been
dismissed.

Mr.Rajinder Goyal, learned counsel appearing on
behalf of the appellant submits that vide allotment dated

28.3.1994, the appellant-plaintiff was inducted as a tenant, in the suit property by defendant No.4-Wakf Board at a monthly rent of Rs.275/-, which was to be effect from 1.3.1994. Since he was apprehending dispossession at the hands of Wakf Board, a civil suit No.527 of 1996 was instituted. On 9.4.1996, ad-interim injunction was granted in favour of the plaintiff which was confirmed vide order dated 27.9.1996 and thereafter the suit was dismissed. On 1.8.1997, the plaintiff was dispossessed and FIR, in this regard, had also been lodged. It is in this background, the suit was filed.

He submits that allotment letter dated 5.10.1995 was issued in favour of defendants no.1 to 3 inducted them as tenant. No eviction order has been passed. The possession could not have been taken forcibly from the plaintiff. Even the cancellation of allotment dated 4.10.1995 and the allotment vide Ex.DW2/C dated 5.10.1995 was not operative in law.

Mr.Arvind Bansal, learned counsel appearing for respondents No.1 and 2 submits that the suit was barred in view of non compliance of the provisions of Section 89 of the Wakf Act, much less, not maintainable for want of challenge/declaration to the cancellation of allotment dated 4.10.1995. Once the tenancy is over, the appellant was required to hand over the possession. The appellant was in an unauthorised possession and as such, the possession was not

forcibly taken. Even in the cross-examination, the appellant admitted the receipt of cancellation order dated 4.10.1995 but did not challenge the same.

I have heard the learned counsel for the parties and am of the view that since the appellant-plaintiff was inducted for eleven months as a tenant in the suit property by defendant No.4-Wakf Board with effect from 1.3.1994 and the injunction suit was instituted after the expiry of period of tenancy and in the cross-examination the factum of receipt of the order of cancellation of allotment dated 4.10.1995 which was/is not subject matter of challenge in the civil suit has not been denied and even no compliance of provisions of Section 89 of the Wakf Act was here, thus, the suit of the appellant-plaintiff was not maintainable.

The learned First Court below, on the basis of appreciation of oral and documentary evidence came to the conclusion that the appellant-plaintiff failed to prove that he was in possession over the suit property and the suit was not maintainable in view of non compliance of the provisions of Section 89 of the Wakf Act, which has not been shown to be erroneous in any manner requiring interference by this Court.

Dismissed.

September 23, 2016
KD

(AMIT RAWAL)
JUDGE