

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 107 (2)

RSA-1776-2016 (O&M)

Decided on : 16.08.2017

Kulwant Singh

..... Appellant

VERSUS

Punjab Wakf Board

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Gurcharan Dass, Advocate, for the appellant(s).

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DEEPAK SIBAL, J. (ORAL)

Respondent-Punjab Wakf Board filed a suit before the trial court seeking therein ejectment of the appellant from agricultural land measuring 53 kanals and 19 marlas situated in village Sanana Hadbast No.348, Tehsil and District Rupnagar (for short “the suit property”).

The case set up by the respondent was that on favourable consideration of the appellant's application dated 13.03.1996, the appellant, through allotment order dated 25.03.1996, was allotted the suit property for the year 1995-96 on payment of rent. However, from the year 1996-97 till the filing of the suit in the year 2011, the appellant remained in illegal possession of the suit property. This was in spite of notices dated 08.03.1997, 28.06.1997 and 28.02.2002 asking him to vacate the suit property. No lease money for the above period was also paid by the appellant.

Upon notice, the appellant appeared before the Trial Court and after admitting the respondent to be the owner of the suit property, sought dismissal of the suit after offering to pay the arrears of lease.

The Trial Court decreed the suit of the respondent. The appeal filed against such judgment and decree at the instance of the appellant was dismissed by the Appellate Court, giving him a cause to knock the doors of this Court through

the present second appeal.

Learned counsel for the appellant submits that in the year 2012, the entire arrears in the form of a bank draft were sent by the appellant to the respondent. However, they were not accepted. It is thus submitted that in view of the above offer, which according to learned counsel for the appellant, was a very fair one, both the Trial Court as also the Appellate Court have wrongly ordered the ejectment of the appellant. It is further submitted that the respondent should be directed to accept the above offer and thereafter the appellant should be permitted to continue with the possession of the suit property.

The above submissions do not deserve a favourable consideration.

It is not disputed that the suit property was allotted to the appellant on 25.03.1996 and such allotment was only for the year 1995-96. It is further not disputed that after 1996-97 there was no renewal of the lease period making the possession of the appellant over the suit property illegal and his status thereupon that of an encroacher. The evidence which has come on record further reveals that since 1996-97 till the year 2012, in spite of registered notices, which were duly proved as Ex.PW1/J to Ex.PW1/L, neither any lease money was paid nor did the appellant even offer to pay the same. However, he continued to enjoy the fruits of land measuring over 53 kanals. The offer made by the appellant in the year 2012 to clear all the arrears deserves outright rejection as the same has been made by a defaulter; after a period of 15 years and that too after filing of the suit in question by the respondent seeking his ejectment. Even otherwise, by offering the payment of arrears of the lease amount in the year 2012 for a period of 15 years when the appellant enjoyed possession of over 53 kanals of land without any authority was no act of charity on his part.

In view of the above, I find no question of law much less any substantial question of law to arise in the present appeal. Resultantly, the appeal is dismissed, with a direction to the appellant to deposit with the respondent the

mesne profits for the use and occupation of the suit property. Learned counsel for the appellant submits that the agreed annual rent for the year 1995-96, when the suit property was allotted to the appellant was Rs.2100/-. He is still stated to be in possession of the suit property. Taking that as the base amount, the mesne profits from the year 1996-97 till 2016-17 are assessed at a lump-sum amount of Rs.75,000/-.

The appellant is directed to deposit the above amount with the respondent within three months from the date of receipt of a certified copy of this order.

For compliance, the matter be put up before this Court on 04.12.2017.

16.08.2017
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No