

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

**RSA No. 2914 of 2016 (O & M)
Date of Decision:-24.01.2017**

Raj Kumar

...Appellant

Versus

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Balkar Singh, Advocate
for the appellant.

HARI PAL VERMA J.

C.M. No.7868-C of 2016

For the reasons mentioned in the application, same is allowed and the delay of 20 days in re-filing the appeal is condoned.

RSA No.2914 of 2016

The appellant/plaintiff has filed the present appeal against the judgment and decree dated 7.10.2015 passed by learned Additional District Judge, Yamuna Nagar at Jagadhri whereby his appeal against the judgment and decree dated 19.1.2013 passed by learned Civil Judge (Senior Division), Yamuna Nagar at Jagadhri was dismissed.

Briefly stated, the appellant/plaintiff was appointed as Tele-

Khalasi on 8.2.2001 at Jagadhri Workshop. However, in August 2005, the plaintiff was transferred from Jagadhri workshop to Ludhiana. The appellant remained absent from duty and, therefore, he was issued a charge-sheet by the defendant, which was followed by the order of removal from service. Thereafter, the defendant had issued a notice under Section 7(3) of the Public Premises (Eviction of the Unauthorized Occupants) Act, 1971 for eviction of the appellant/plaintiff from the allotted Quarter No.123-D, Railway Colony, Jagadhri Workshop. Alleging that the defendants are interfering into peaceful possession of his quarter in question, the plaintiff filed the suit with a prayer to restrain the defendants from dispossessing him from the said quarter illegally.

The defendants filed written statement taking various preliminary objections regarding maintainability, want of jurisdiction, concealment of true and material facts and estoppel etc. However, on merits, it was pleaded that the defendants have proceeded under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, wherein, the order of ejectment has been passed on 18.10.2010 with the direction to the plaintiff to pay Rs.94141/- to the defendants. The plaintiff has not preferred any appeal against the said order of eviction and, therefore, dismissal of suit was prayed for.

On pleadings of the parties, following issues were framed by the Civil Court :-

- “1. Whether plaintiff is entitled to the relief sought for ?
OPP
2. Whether suit of the plaintiff is not maintainable ? OPD

3. Whether the plaintiff has concealed the true and material facts from the Court ? OPD
4. Whether the Civil Court has got no jurisdiction to entertain and try the present suit ? OPD
5. Relief.”

Vide judgment dated 19.1.2013, the learned trial Court has held that the appellant/plaintiff was a dismissed employee, and was dismissed wayback in the year 2007 but he continued to retain the quarter since his dismissal. He is not vacating the Government quarter despite legal order passed by the competent authority under the provisions of the 'Act'. Since he had been removed from the service, plaintiff does not enjoy the status of a lessee or tenant. He was simply a licensee. The government accommodation was provided to him so that he may discharge his duties as a public servant. There are other employees, who may be standing in queue for allotment of government accommodation but because the appellant has not vacated the allotted premises, he has deprived the legitimate rights of other employees, who are otherwise legally entitled to get the allotment of government quarter. Against the detailed judgment dated 19.1.2013, the plaintiff preferred an appeal before the Additional District Judge, Yamuna Nagar at Jagadhri, which was also dismissed vide judgment dated 7.10.2015.

It is in the aforesaid circumstances, the appellant/plaintiff has preferred the present regular second appeal.

Learned counsel for the appellant has argued that the Courts below have not appreciated the material question involved in the present

case. The appellant has filed the civil suit on 20.1.2011 and the eviction order was passed by the respondents on 31.1.2010.

I have heard learned counsel for the appellant.

There is no dispute that the appellant was dismissed from service vide order dated 17.12.2007. He preferred an appeal against the order of dismissal, but his appeal was also dismissed on 18.9.2008. Even the appellant has approached against the order of dismissal, he filed an O.A. (Original Application) before the Central Administrative Tribunal, Chandigarh, but his O.A. was also dismissed vide judgment dated 6.1.2011 (Ex.D-3). Thus, as on date he is not on the Government roll. Thus, the appellant is unauthorised occupant of the quarter in question and the Authority under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 has passed the order of ejectment against him. The Estate Officer, Northern Railway Ambala Cantt. had also directed the appellant to pay Rs.94141/- as damages from the period from 17.12.2007 to 31.10.2010 @ Rs.2730/- per month, but despite specific provision under the Act, the plaintiff did not prefer any appeal against the order of ejectment and in this manner the order of ejectment had attained finality.

The appellant was allotted Government accommodation because of his employment with the railway workshop. But, once the appellant has been removed from service, the allotted Government accommodation cannot be retained by him after a permissible period. Thus, as the appellant is no more in service, therefore he is not entitled to retain the Government accommodation.

Hence, this Court does not find any illegality in the orders passed by the Courts below. There is no substantial question of law arises in the present appeal. The appeal is hereby dismissed.

January 24, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No