

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

**C.M. No. 6889-C of 2017  
in/and R.S.A. No. 4703 of 2015  
DATE OF DECISION :- May 19, 2017**

**Himmat Singh and another**

**...Appellants**

**Versus**

**Shree Bhagwan**

**...Respondent**

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

**Present:-** Mr. Keshav Partap Singh, Advocate for the appellants.  
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**HARI PAL VERMA (ORAL)**

The application C.M. No. 6889-C of 2017 filed under Order 41 Rule 5 CPC is for staying the further proceedings before learned Executing Court.

The main case is fixed for 7.11.2017. None has put in appearance on behalf of the respondent. On request of learned counsel for the applicants-appellants, the main case is taken up for hearing on Board today itself.

**R.S.A. No. 4703 of 2015**

Appellants-defendants have filed the present Regular Second Appeal against the judgment and decree dated 30.04.2015 passed by learned Additional District Judge, Rewari whereby their appeal against the judgment and decree dated 30.11.2013 passed by Civil Judge (Junior

Division), Rewari was dismissed.

Respondent-plaintiff has filed a suit for permanent injunction and mandatory injunction claiming that they are in possession of the property bearing Khewat No. 120, Khatauni No. 197, Khasra No. 123 (0-6) “gair mumkin gait” vide Jamabanadi of the year 1959-60 in village Budana and his father has constructed house on this plot in the year 1975.

The appellants-defendant's father Prahalad and his brother Mula, were Sangi by profession. Some where around the festival of Holi in the year 1975 they requested Narain Singh i.e. father of the plaintiff, to allow them to reside in the house in question. Acceding their request, the plaintiff's father permitted them to reside in the house in question as licensee, and the defendants agreed to vacate the said house as and when the father of the plaintiff or his legal heirs would ask them to vacate the same or any of their family member acquired any plot or property in village for residential purpose. Mool Chand @ Mula i.e. defendants' father's brother, left the village about 7 years back. At the request of defendant's father-Parhlad Singh, plaintiff's father allowed him (Parhlad Singh) to reside in the portion occupied by Mool Chand @ Mula marked as ABCD. On the said portion i.e. ABCD, plaintiff's father spent ₹70,000/- on its construction. Defendant No.2 used to reside there as licensee and agreed to vacate the said portion as and when required by the plaintiff or his legal heirs. It is further averred by the plaintiff that since defendant No. 1 is settled in Sohana along with his family and defendant No. 2 has also been allotted a residential plot by Gram Panchayat, thus, they are liable to vacate the

property in dispute. But despite need of the plaintiff, defendant did not vacate the disputed property. Further, defendant No. 2 started demolishing the room existing in the portion CDEF in the site plan. Thus, they have violated the terms of licence. Since the defendants did not pay any heed to the plaintiff's request to vacate and not to cause any damage to the disputed property, hence, the suit was filed.

The trial Court vide judgment and decree dated 30.11.2013 held that the plaintiff is entitled to permanent injunction and the defendants were restrained from undertaking and continuing construction over the property except within steps essential to keep it in a safe condition.

Aggrieved against the aforesaid judgment and decree passed by the trial Court, the appellants-defendants as well as respondent-plaintiff filed their respective appeals and vide judgment and decree dated 30.4.2015, the judgment and decree passed by the Civil Court was modified. Accordingly, a decree of mandatory injunction was passed in favour of the respondent-plaintiff directing the appellants-defendants to hand over the suit property along with structure within two months from the date of passing of the judgment.

Still aggrieved against the judgment and decree passed by the lower Appellate Court dated 30.4.2015, appellants/defendants have filed the present appeal.

After arguing for some time, learned counsel for the appellants does not press the instant appeal however, submits that he has got instructions from his client that in case some reasonable time is granted,

they are ready to vacate the premises in question. He further submits that appellants-defendants are owning a plot measuring 100 Sq. Yards in the village and needs some time to raise construction so as to make it habitable.

No body is present on behalf of the respondent despite service.

Considering the prayer made by counsel for the appellants and the fact that they have to raise construction over the plot which would certainly take some time, the appellants/defendants are granted one year time to vacate the premises in question. They will hand over the vacant physical possession of the premises in question along with all fittings and fixtures, if any, to the respondent-plaintiff on or before 31.05.2018. During this period, appellants are expected to maintain the house property so as to protect it from any damage.

Dismissed as withdrawn.

Since the present appeal is being dismissed as withdrawn at this stage, so far as issue of mesne profits is concerned, same is left open.

**(HARI PAL VERMA)**  
**JUDGE**

**MAY 19, 2017**  
*p.singh*

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No