

In the High Court of Punjab and Haryana at Chandigarh

**Regular Second Appeal No. 1148 of 2017 (O&M)
Date of Decision: 28.2.2017**

Parkash Singh

.....Appellant

Versus

Greater Mohali Area Development
Authority and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harsh Kinra, Advocate
for the appellant.

ANITA CHAUDHRY, J

The unsuccessful plaintiff dissatisfied with the judgments of both the Courts below has filed his second appeal.

The case set-up by the plaintiff was that he was a caretaker-cum-licensee of the property owned by defendant No. 2. Defendant No. 2 in lieu of the services rendered by him was paying Rs. 2,000/- per month to the plaintiff. Defendant No. 2 used to reside abroad and on his visit in November 2001, he expressed his desire to construct the first floor. The plaintiff helped defendant No. 2 and rendered services to defendant No. 2. Defendant No. 2 flew back to Canada without clearing the dues. It was pleaded that plaintiff demanded the money spent on the construction by him which was refused by defendant No. 2 and on apprehending forceful dispossession, the plaintiff filed a suit for injunction. Defendant No. 2 came to know about the institution of the suit and he (defendant No. 2) in connivance with defendants No. 3 and 4 removed his belongings. The

plaintiff got an FIR registered. Meanwhile defendant No. 2 sold the property to Pawan Kumar. During this period, defendant No. 2 arranged an alternative accommodation and informed the plaintiff that the house was purchased in his name and the title would be transferred in his name and asked him to get the FIR cancelled. The plaintiff took possession of the house in Sector-66, Mohali and on the basis of the transfer letter he took water and sewerage connections. In November 2009, a Junior Engineer from GMADA office asked him to vacate the premises and the suit was filed.

Upon notice only defendant No. 1 contested the suit and pleaded that the jurisdiction of the Civil Court was barred under Section 174 of the Punjab Regional and Town Planning and Development Act, 1995 and the suit was bad for non-joinder of the necessary parties. It was pleaded that the plaintiff's possession on the house was unauthorized and it had not been allotted or transferred by them. It was pleaded that the previous allotment stood in favour of Rachpal Singh but it was cancelled in October 2000 and the amount deposited by Rachpal Singh was refunded and later on the house was allotted to Balraj Singh son of Harbhajan Singh in an open auction held in June 2001 but due to some family problems he surrendered the house and that allotment was cancelled in March 2004. The house was then allotted to Paramjit Kaur wife of Hardev Singh but that allotment was later cancelled. It was pleaded that the transfer letter set-up by the plaintiff was forged and fabricated and they had lodged an FIR against the plaintiff. It was pleaded that they had issued notice to the plaintiff to vacate the premises.

Both the sides led evidence. The allotment letter set-up the plaintiff could not be proved as a photocopy was produced which the Court

had rejected as inadmissible. GMADA on the other hand summoned their record and also proved the FIR which had been lodged against the plaintiff.

The plaintiff had claimed to be in authorized possession but had failed to lead evidence and could not prove allotment in his favour and the suit was dismissed. The findings recorded by the trial Court were affirmed in appeal.

The submission on behalf of the appellant was that since the plaintiff was in possession, he could not be dispossessed except in due course of law.

The plaintiff had entered the property illegally based on a forged and fabricated transfer letter. He was unable to prove that the property had been allotted to him. He was an unauthorized occupant and notice had been issued under Section 46(1) (B) of the Act in November 2009. Both the Courts below had noted that respondent No. 1 was not forcefully dispossessing him and had adopted the due process to get the premises vacated. No injunction could be granted against the true owner.

I find no infirmity in the findings of the Courts below.

The appeal is dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

February 28, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No