

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5063 of 2017 (O&M)

Date of decision: 03.11.2017

The G.M. TD, BSNL, Hisar

..... Appellant

Versus

Dr. Surenderpal Jassi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. H.P.S. Ghuman, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Defendant-appellant is in regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff filed a suit for declaration and mandatory injunction. Plaintiff is undisputed owner of the property. He had given it on lease to defendant No.1-appellant vide lease deed dated 18.07.2005 to be effective from 01.03.2005 for a period of five years. It was further asserted that as per the lease deed, if the defendant wanted to extend the same, he was to apply and notify to the plaintiff one month before the expiry of the lease deed.

Both the Courts have concurrently found that the defendant did not take steps to seek renewal of the lease deed. No communication was sent to the plaintiff during the period of lease seeking renewal of the same. The communication was sent only on 12.03.2010, although, the lease had expired on 01.03.2010. As per the lease deed, defendant-appellant was entitled to further period of five years. Even that period has elapsed.

Learned counsel for the appellant has further submitted that there was an arbitration clause. The objection to the jurisdiction can only be adjudicated upon as per Section 8 of the Arbitration and Conciliation Act, 1996. Once both the parties have undergone the trial of the case before the trial Court and the First Appellate Court, the argument of learned counsel for the appellant in this regard cannot be accepted. Still further, both the Courts below have given cogent reasons as to why that clause is not applicable.

Hence, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

However, taking into consideration that the appellant is a public utility service being service provider to residents of the area and the appellant has installed a tower which caters to residents of the area, the appellant is granted six months time to vacate and hand over vacant possession of the premises subject to clearing all the payments and current rents.

Regular Second Appeal is dismissed.

Since, this Court has passed the order granting six month time to the appellant to hand over vacant possession to the respondents without issuing of notice, the respondents would be at liberty to move an application for recall of the same.

03.11.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No