

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

RSA No.1137 of 1995 (O&M)

Date of decision:08.05.2018

Amarjit Singh

... Appellant

Vs.

Punjab State and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Ms. Kulvir Kaur, Advocate, for
Mr. Vinod K. Sharma, Advocate
for the appellant.

Ms. Devaki Anand Sullar, AAG, Punjab.

Mr. Virendra, Advocate, for
Mr. Malkiat Mann, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of facts and law, whereby, suit for permanent injunction restraining the defendants from taking any action against the plaintiff on the basis of alleged order of eviction passed by the Deputy Director Colonisation Punjab Chandigarh, under The Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973 (hereinafter referred to as “1973 Act”) from khasra no.1443, has been dismissed by both the Courts below on the premise that as per the provisions of Section 15 of 1973 Act, jurisdiction of the Civil Court was barred, for, order of the Collector was appealable before the Commissioner.

The present Regular Second Appeal, vide order 14.03.1996, was admitted and status quo qua possession existing on the day when it was listed was ordered to be maintained. On 16.01.2017, learned counsel for the appellant apprised this Court that appellant has expired and sought time for impleading the legal representatives of the deceased-appellant. On 30.10.2017, again request was made to implead the legal representatives and similarly on 27.04.2018. Today again, a request has been made for adjournment.

As per the amended provisions of Order 22 Rule 3 as well as amendment in sub-rule 2 of Rule 3 of Code of Civil Procedure as applicable to Punjab, Haryana and Chandigarh, following amendment has been caused which reads as under:-

3 . Procedure in case of death of one of several plaintiffs or of sole plaintiff—

(1) Where one of two or more plaintiffs dies and the right to sue does not survive to the surviving plaintiff or plaintiffs alone, or a sole plaintiff or sole surviving plaintiff dies and the right to the sue survives, the Court, on an application made in that behalf, shall cause the legal representative of the deceased plaintiff to be made a party and shall proceed with the suit.

(2) Where within the time limited by law no application is made under sub-rule (1), the suit shall abate so far as the deceased plaintiff is concerned, and, on the application of the defendant,

the Court may award to him the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff.

Punjab, Haryana and Chandigarh – For existing sub-rule (2) of Rule 3 substituted:-

Rule 3(2): where within time limited by law no application is made under sub-rule(1), the suit shall not abate as against the deceased plaintiff and the judgment may be pronounced notwithstanding his death which shall have the same effect as it has been pronounced before the death took place, and the contract between the deceased and the pleader in that event shall continue to subsist.”

Section 15 of 1973 reads as under:-

“No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorized occupation of any public premises or the recovery of the arrears of rent payable under sub-section (1) of section 7 or the damages payable sub-section (2) of that section or the costs awarded to the State Government, or the [local – in Hr] [Corporate – in Pb.] authority under sub-section (5) of section 9 or any portion of such rent, damages or costs.”

Concededly, the order of Collector had not been assailed before the Commissioner. The appellant-plaintiff by concealing the aforementioned

fact and mis-representing obtained the status quo. The stay granted by this Court stands vacated.

In view of the aforementioned observations, the judgments and decrees of the Courts below do not suffer from any illegality and perversity which are based upon the appreciation of oral and documentary evidence.

No ground is made out for interference in the impugned judgments and decrees of both the Courts below.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

May 08, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No