

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

RSA No.3795 of 2016(O&M)
Date of decision: 08.05.2018

Savitri Devi

... Appellant

Versus

Estate Officer and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Atul Kaushik, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff was dismissed by the trial Court, vide judgment and decree dated 14.06.2012. As even the appeal against the said decree failed and was dismissed on 24.08.2015, the plaintiff is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff prayed for a declaration that she was entitled for allotment of a built up booth constructed in Sector 40 Chandigarh, and the order dated 07.11.2007, vide which she was declared ineligible for allotment was illegal, arbitrary and unsustainable in law. Further, she prayed for a consequential relief, restraining defendant No.1 from causing her dispossession from site No.52, Rehri Market, Sector 40, Chandigarh till the decision of the suit.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that plaintiff submitted an application (Ex.D1) to obtain a hawker licence. And in terms of clause 3 of

the policy/regulations, she maintained that neither she nor any of her family members owned any commercial/industrial property, nor was even employed with the Government/Semi Government. Her application (Ex.D1) was accepted, she was granted a hawker licence bearing No.1140 (Ex.D2), as also a provisional Identity Card (Ex.D3). As a result, she was allotted site No.52 in Rehri Market, Sector 40, Chandigarh. A scheme was floated by the Chandigarh Administration for allotment of built up booths to those who possessed a valid hawker licence under the Allotment/Transfer of built up booths on lease/hire purchase basis in Chandigarh Rules, 1991. Pursuant to the said scheme, she moved an application (Ex.D4), supported by an affidavit (Ex.D5), for allotment of a pucca booth. In her affidavit (Ex.D5), she affirmed that neither her spouse nor any member of her family, dependent on her, owned any commercial/industrial/rehri site and her monthly income from all sources did not exceed Rs.7500/- pm. However, during the course of verification/scrutiny of her claim by the Screening Committee, she revealed that in fact her husband was employed with the MARKFED and was drawing more than Rs.7500/- as salary per month. Meaning thereby, even the hawker licence obtained by her, pursuant to application Ex.D4, was a consequence of a misstatement. Not just that, while appearing as her own witness (PW1), she conceded in her cross-examination that her husband was working as Peon in MARKFED even when she obtained the licence. Further, in terms of the scheme only those could be allotted sites or permitted to run rehri who possessed a valid licence and their family income was less than Rs.7500/- pm. Thus, she conceded that the information furnished by her vide her affidavit (Ex.D1), submitted in the year 2007, was incorrect. Therefore, it was concluded that a person whose

claim itself was based on falsehood, was not entitled to any relief. On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusions arrived at by both the courts were either contrary to the record or suffered from any material illegality.

Thus, no question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

08.05.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO