

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.2896 of 2015 (O&M)

Date of decision: 08.05.2018

Food Corporation of India and others

..... Appellants

Versus

Sanjay Gupta and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. K.K. Gupta, Advocate
for the appellants.

Mr. Santosh Sharma, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below while decreeing the suit for recovery for use and occupation of the godowns which were occupied by the appellants. Originally, the godowns were leased out for a period i.e. 15.06.1994 to 31.03.1995. Admittedly, thereafter there is no further agreement. The defendants offered to further lease out the property @ 2.50 per sq. feet which was not agreed by the appellants. However, the appellants did not vacate the premises. Learned trial Court after relying upon an agreement executed by the Warehousing Corporation determined the rate at Rs.2.35 per sq. feet and ordered recovery.

Learned counsel for the appellants has vehemently argued that as per Ex.P-3, the plaintiffs had undertaken to abide by the rate determined

by the competent authority of the appellant-Corporation. He submits that therefore, the appellants are only liable to pay the rent as was determined for the period from 15.06.1994 to 31.03.1995. It is not in dispute that the competent authority has not determined the rate of rent till date for the relevant period.

Learned counsel for the appellants has further tried to argue that with respect to the period 01.04.1995 to 06.04.1999, this Court had determined the charges for use and occupation at Rs.1.40 per sq. feet. However, copy of such judgment has not been filed before the Courts below. No application for additional evidence has been filed although this appeal is pending for the last three years. The defendants have now vacated the premises. The only dispute is with regard to use and occupation charges which have been determined by the Courts below on the basis of a similar godown taken on lease by another public sector undertaking.

In view thereof, there is no ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

08.05.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No