

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

**RSA No.3897 of 2015 (O&M)
Date of Decision.23.01.2019**

Surinder Singh and others

...Appellants

Vs

Food Corporation of India

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajinder Goyal, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming recovery of ₹9,41,103/- before the trial Court as the relief was confined to rendition of accounts of the rent of the plinths for the period from 24.09.1991 to 05.05.1992. In appeal, the lower Appellate Court while dismissing the appeal modified the decree of the trial Court to the extent of rendition of account for the rent of plinths for the period 24.09.1991 to 5.5.1992 on actual utilization basis.

The plaintiff sought recovery of aforementioned amount, inter alia, on the ground that Food Corporation of India had constructed open plinth and godown from the plaintiffs on their land at village Ram Nagar Sibian under guarantee hiring scheme. Godown was taken initially for a period of three years with an option to extend it further for one year. The rate of rent was fixed @ 30 paise per square fee. In this regard, agreement dated 11.02.1987 was entered into. After the expiry of fifth year of hiring on 23.04.1992, FCI did not vacate and continued in possession but intimated the plaintiff via

telegram dated 7.5.1992 regarding the vacation w.e.f. 5.5.1992. In such circumstances, plaintiff was entitled to rent for the whole year from 23.4.1992 to 23.4.1993 as lease was from year to year basis. Defendant had also not paid rent from 23.4.1990 to 23.4.1993. Defendant also did not make any payment of rent from 23.4.1990 to 22.9.1991 but subsequently paid only ₹3,56,898/- on 29.9.1991 and thereafter, did not pay anything.

Defendant opposed the suit and stated that the amount was already paid and there was nothing due. Plaintiff failed to submit any necessary bills.

Mr. Rajinder Goyal, learned counsel appearing on behalf of the appellants submitted that both the Courts below have committed illegality and perversity in coming to the conclusion that bill of ₹5,35,875/-, Ex.DW2/A for the rent from 24.4.1990 to 23.9.1990 was actually passed for ₹3,56,898.35 paise on actual utilization basis and the plaintiff received the same, which is evident from the signatures on Ex.DW2/A and DW2/C. Respondent-defendant also brought on record Ex.D2 i.e. letter dated 20.4.1991 written by the plaintiffs for release of the rent giving indication of acceptance of rent under protest. The Courts below erred in law in not considering the settled proposition of law as mere exhibition of document do not dispense with its proof. Documents have to be proved in accordance with law. Ex.D1 has not been proved, as it was emphatically denied by the plaintiff. The conclusion of the Courts below was based on conjectures and surmises, for, no evidence available on record that plinths were ever let out w.e.f. 23.4.1990 on

day to day actual utilization basis on monthly basis. Secondly, it is an admitted fact that respondent-defendant had not paid rent w.e.f. 25.09.1991 to 5.5.1992.

I am afraid aforementioned argument of Mr. Goyal is not sustainable, for, agreement Ex.P2 dated 11.02.1987, the defendant had not exercised the option of one year, rather fresh agreement came into existence whereby plinths were taken on lease on actual utilization basis. In such circumstances, the recovery as sought for could not have been granted. DW3 S.D. Singhana proved that plaintiff submitted bills (Ex.DW2/A and DW2/C), which was passed for the amount aforementioned on actual utilization basis, thus, claim of the plaintiffs for rent was not justified.

In such circumstances, I am of the view that plaintiffs were not entitled to original rent as done in the agreement Ex.P2 as there was fresh agreement of actual utilization was made. I do not find any illegality and perversity in the judgment and decree rendered by the lower Appellate Court, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 23, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No