

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

**RSA No.6835 of 2016 (O&M)
Date of decision:13.02.2019**

Mohan Lal

... Appellant

Vs.

Suman

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. A.P.Kaushal, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant has not been successful in defending the suit for mandatory injunction filed by the respondent-plaintiff, who is none else but his sister for vacating the premises on revocation of license.

It was alleged that plaintiff was owner of the land measuring 50 square yards bearing No.514, Gali no.10, Block-A, Basant Nagar, Shimlapuri, Ludhiana and placed on record the registered sale deed dated 06.07.2007. It was also alleged that defendant, was none-else but her brother was given permission to stay in the house. Though attempt was made by the plaintiff to prove the sale deed through attesting witnesses PW2-Chandanbir Singh and PW3-Mohinder Singh, Lambardar but the question to be decided in the suit is regarding the dispute between the licensor and licensee, whether the status of the defendant on revocation of the license is of trespasser or is occupying the premises without permission of the licensor.

The defendant opposed the suit and claimed to have in possession of the suit property as a matter of right and denied the status of licensee.

Mr. A.P.Kaushal, learned counsel appearing on behalf of the appellant-defendant submitted that appellant had already filed the suit against the respondent-plaintiff challenging the title wherein it has been proved that she was not owner of the suit property but Gram Panchayat. As per the jamabandi, it was *shamlat patti*. The pleadings of the aforementioned suit could not be placed on record.

I am afraid the aforementioned argument is not sustainable as Sai Dass, father of the appellant-defendant disinherited the appellant. The suit was preceded by revocation of license through legal notice Ex.P4 and postal receipt, Ex.P5. The relationship of licensor and licensee is of a grantor and grantee. The grantee cannot be permitted to occupy the premises on revocation of the license. In such circumstances, suit for mandatory injunction as per the provisions of Section 39 of Specific Relief Act on account of breach of obligation was the correct approach. The finding of fact and law on the aforementioned premise cannot be said to be suffering from illegality and perversity, for, area in dispute is within the Municipal Limits of Ludhiana.

The appeal is also accompanied by an application seeking condonation of delay of 178 days in filing the appeal. The explanation given in the application is bereft of the reasoning.

Resultantly, the regular second appeal is dismissed on merits as well as on limitation.

February 13, 2019

savita

(AMIT RAWAL)
JUDGE

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