

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

RSA No.247 of 2018(O&M)
Date of decision: 21.11.2019

Gurdeep Singh

... Appellant

Versus

Punjab Wakf Board, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Raj Kumar Chauhan, Advocate, for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the respondent-plaintiff was decreed by the trial Court vide judgment and decree dated 06.11.2013, and as even the appeal preferred against the said decree failed and was dismissed on 10.11.2016, appellant-defendant is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiff prayed for possession by way of ejectment of the defendant from the suit property, shown in red colour in the site plan appended with the plaint. In brief, the case set out by the plaintiff-Board was that suit property was allotted to Surjit Singh, father of the defendant, some time in the year 1972. Post death of Surjit Singh, it was re-allotted to his widow, namely Surinder Kaur, and after she died, defendant came in

possession of the suit land. An application under Section 31 of the Punjab Relief of Indebtedness Act, 1934, was moved by the defendant to deposit the arrears of rent claiming himself to be the tenant of the plaintiff-Board. However, tenancy rights of the defendant, if any, had since been determined vide notice dated 10.08.2010, under Section 106 of the Transfer of Property Act, 1882. Thus, defendant had no right to remain in possession of the suit property, thus, the suit.

In the written statement filed by the defendant, he claimed himself to be a statutory tenant under the plaintiff-Board since 1972, and that he had been paying rent regularly up to December, 2012. Further, in the wake of earlier litigation between the parties, and the judgment and decree dated 22.04.2002, passed by Shri S.P. Singh, Civil Judge (Jr. Divn.), Hoshiarpur, the present suit was not maintainable and, thus, was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record both the Courts concurrently concluded that defendant, who denied to be a licensee, and rather claimed to be a statutory tenant, failed to substantiate his claim for lack of evidence. So much so, he chose not to lead any oral or documentary evidence. Not just that, he did not even appear as his own witness to prove his claim. On the contrary, plaintiff-Board examined Arjun Khanna (PW1), who proved the site plan. Razwan Khan, Estate Officer, Punjab Wakf Board (PW2), testified in his deposition that tenancy rights of the defendant, if any, were determined vide notice dated 10.08.2010, in terms of Section 106 of the Transfer of Property Act. Copy of notice (Ex.P2), postal receipt (Ex.P3) and acknowledgment (Ex.P4) were duly proved on record. Thus, the defendant had no right to occupy the suit

land. That being so, and the plaintiff-Board concededly being owner, was entitled to possession.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions arrived at were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the findings recorded by both the Courts.

The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

21.11.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO