

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

RSA No.4339 of 2018 (O&M)
Date of Decision: May 03, 2019

Gopal Kumar and others

...Appellants

Versus

The Liquidators and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashok Kumar Khunger, Advocate
for the applicants-appellants.

JAISHREE THAKUR, J. (Oral)

CM-11508-C-2018

1. There is delay of 190 days in filing the appeal.
2. The application is supported by affidavit.
3. For the reasons mentioned in the application, the same is allowed and delay of 190 days in filing the appeal is condoned.

Main case

1. In brief facts of the case are that, the plaintiffs-appellants (henceforth called 'the appellants') alleged themselves to be the old employees of the Abohar Cooperative Spinning Mill Ltd. which has gone into liquidation. They were allotted the residential quarters and were occupying the said quarters for the last more than 15 years. After the Mill came into liquidation, the entire liquidation process was being handled by respondent No.1/defendant No.1, Liquidator, who was appointed by the Government. The appellants were

paid a part of their dues and still a huge amount is recoverable from respondent No.1/defendant No.1. They have been issued ration cards and voter cards at the addresses of the quarters. They further alleged that the defendants in connivance with each other were trying to dispossess the appellants from their quarters illegally and forcibly. Hence, the suit was filed seeking permanent injunction.

2. On notice, respondents No.1 to 3/defendants No. 1 to 3 caused appearance and filed their separate written statement by stating that, the Govt. of Punjab has handed over the property to respondent No.1/defendant No.1 and as per direction of the government, respondent No.2/defendant No.2 has been entrusted the work of improvement and development of the suit property in question. It was contended that after development, the property was to be sold, to pay the dues of the Mill. The sale proceeds were to be deposited with respondent No.1/defendant No.1. It was alleged that the appellants are illegal occupants and have no right to retain the possession of the suit property. It was further alleged that the ration cards and voter cards do not confer any title to the appellants qua the said quarters. Hence, dismissal of the suit was prayed for.

3. Defendant No.4 was given up on 19.11.2010 by counsel for the appellants vide his separately recorded statement in the Lower Court.

4. From the pleadings of the parties, the trial court framed the following issues :-

1. Whether the plaintiffs are entitled to permanent injunction as prayed for? OPP
2. Whether the plaintiffs have no cause of action and locus standi to file the present suit? OPD

3. Whether the suit is not maintainable? OPD

4. Whether notice under Section 80 CPC was served upon the defendants before filing the present suit? OPD

5. Relief.

5. In order to prove their case, appellant No.1/plaintiff No.1 himself stepped into the witness box as PW-1 and examined appellant No.3/plaintiff No.3 as PW-2. On the other hand, defendants examined Anil Sharma as DW-1 and Suresh Kumar, Assistant Engineer, PUDA, Bathinda as DW-2.

6. Both the Courts below have recorded concurrent findings of facts that the appellants are the old employees of the Abohar Cooperative Spinning Mill, which has gone into liquidation. The quarters, for which injunction is prayed for by the appellants, were allotted to them for residential purposes about 15 years back but, since the Spinning Mill has already gone into liquidation, they would not be entitled to retain the same. It was further held that the appellants were in possession over quarters as a licensee, so a licensee has no right to ask for injunction against the true owner. It was further held that the Mill, where the appellants were working, has gone into liquidation and appellants have no work to do in this Mill, therefore, the appellants have no right to retain the possession of these quarters. Once it is established on the record that the property has been handed over to respondent No.2/defendant No.2 for development then, the appellants are duty bound to vacate the suit property.

7. I have heard the counsel for the appellants and the argument as raised that the appellants have a right to stay on the said premises is without merit. The appellants were allotted accommodation while working in the Mill and at best they could be held to be licensee. The land on which the quarters

were built now stands mutated in the name of respondent No.2/defendant No 2. The contention raised that there are ration cards issued from the address of quarters where the appellants are residing would have no bearing as no right or title is created in their favour and, therefore, would not be entitled to permanent injunction against the owner.

8. Moreover, no substantial question of law arises for interference in concurrent findings of fact in this appeal. However, the appellants herein are allowed six months' time to vacate the demised premises, considering the fact that they are in occupation of the said premises for more than 15 years.

9. Dismissed with the aforesaid directions.

May 03, 2019
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No