

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-6512-2018 (O&M)

Date of decision: 19.03.2019

Lal Babu and others

...Appellants

Versus

The Liquidators, the Abohar Coop Spinning Mill Ltd. and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.A.K. Khunger, Advocate,
for the appellants.

JAISHREE THAKUR, J.

CM-18299-C-2018

This is an application that has been filed under Section 151
CPC seeking condonation of delay of 2 days in re-filing the appeal.

For the reasons mentioned in the application, the same is
allowed.

Delay of 2 days in re-filing the appeal stands condoned.

CM-18300-C-2018

This is an application that has been filed under Section 5 of the
Limitation Act seeking condonation of delay of 183 days in filing the
appeal.

For the reasons mentioned in the application, the same is
allowed.

Delay of 183 days in filing the appeal stands condoned.

RSA-6512-2018

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 Mills 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 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 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, 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 defendant No.1 and as per direction of the government, 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 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 19.11.2000 by counsel for the appellants vide his separately recorded statement in the Lower Court.

4. No replication was filed. However, on the pleadings of the parties, the trial Court framed the following issues :-

- “1. Whether the appellants are entitled to permanent injunction as prayed for? OPP*
- 2. Whether the appellants 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 himself stepped into the witness box as PW-1 and examined appellant No.7 Uma Kant 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 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 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 finding of fact in this appeal.

9. Dismissed.

19.03.2019

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No.
Yes/No.