

(116) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-5034-2018 (O&M)
Date of Decision: 05.02.2020

The Christian Medical College Ludhiana Society (Regd.) Appellant
Versus
Semial Sidhu ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bhrigu Dutt Sharma, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Present appeal has been filed by the employer against the judgment passed by the Learned First Appellate Court while accepting the appeal filed by an employee, setting aside the decree for mandatory injunction, directing the defendant to stop the user, vacate and hand over the vacant possession of the House No.7, College Gate, CMC Campus, Ludhiana.

The plaintiff-appellant filed the present suit on the ground that defendant-respondent was allotted house in question because of his employment with the plaintiff. The plaintiff claimed that the license has come to an end on the ground that the services of the employee have been terminated. Learned trial Court decreed the suit. However, the appellate Court, taking note of the judgment dated 18.04.2017 passed by Industrial Tribunal reinstating the defendant in service, accepted the appeal.

Learned counsel for the appellant submits that against the Award passed by Industrial Tribunal dated 18.04.2017, a Civil Writ Petition No. 11709 of 2017 has been filed by the appellant, which is pending and stay has been granted. He further submits that respondent has already handed over vacant possession of the premises.

Keeping in view the facts of the case, the present appeal is disposed of as the main relief, i.e., for mandatory injunction has become infructuous as the defendant has already handed over vacant possession. However, learned counsel for the appellant submits that the appellant is entitled to recovery for use and occupation charges of the premises.

As on date, the defendant is in the employment of the plaintiff-appellant. As per service Rules, the appellant is entitled to recover use and occupation charges of the premises as are payable by an employee in service.

Learned counsel for the appellant submits that this appeal be kept pending till the decision of Civil Writ Petition No. 11709 of 2017.

In the considered view of this Court, once the defendant had already vacated the premises, there is no reason to keep the appeal pending. As and when the Writ Petition is finally decided, the appellant would be at liberty to proceed against the respondent for recovery of use of occupation charges of the premises , if any, payable.

Disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

(ANIL KSHETARPAL)

Judge

05.02.2020

Pardeep

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No