

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

RSA-2458-1994
Date of decision: 01.05.2024

JAGTAR SINGH ..Appellant

Versus

MUNICIPAL COMMITTEE, PHILLAUR ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V. Ram Swaroop, Advocate
for the appellant.

Ms. Jasvir Kaur, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. This plaintiff's regular second appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment of the trial Court.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
3. The plaintiff filed the suit for possession of shop No.20 and for recovery of amount including damages. It is the case of the plaintiff that Municipal Committee, Phillaur, planned a shopping complex. The shops were leased out through an open auction. The plaintiff was successful in submitting his bid for shop No.20. He deposited certain amount and started construction, however, when he was yet to complete the construction, defendant issued notice under the Punjab Municipal Act, 1911, alleging that construction is illegal. Thereafter, further construction was stopped and defendant took over possession and completed construction. The Municipal

Committee while contesting the suit claimed that construction was to be completed within a period of six months from the date of approval of auction, however, the plaintiff failed to construct the shop. Hence, earnest money was forfeited and the tenancy was revoked. The rent was not regularly paid by the plaintiff. Subsequently, on the request of the plaintiff, he was allotted an alternative shop No.17 on 25.07.1986, however, he failed to construct the shop.

4. The trial Court decreed the suit, however, the First Appellate Court found that shop No.20 has been used for construction of octroi post and the plaintiff opted for another shop No.17 but subsequently changed his stance and filed the suit. The First Appellate Court also found that plaintiff permitted the Municipal Committee to construct octroi post on plot No.20. Thereafter, the suit has been filed. It was also found that the plaintiff already opted for another shop No.17. Thus, the First Appellate Court held that plaintiff has no right to seek possession of shop No.20.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. The learned counsel representing the appellant submits that admittedly shop No.20 was leased out to the appellant and he was never evicted in accordance with law. He submits that the Municipal Committee had no right to dispossess the plaintiff.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. The plaintiff is claiming to be lessee of the property as he took the shop on rent. However, subsequently, the shop was required for

establishing octroi post. Thereafter, Municipal Committee constructed the octroi post and started working from the same building. The plaintiff was offered alternative shop to which he accepted. Now, he cannot take a U-turn and claim possession of shop No.20.

9. Moreover, the plaintiff filed the suit for shop no.20 in the year 1988 after having accepted alternative allotment in the year 1986.

10. In the meantime, he permitted the Municipal Committee to complete construction octroi post and use it for public purpose.

11. Hence, no ground to interfere is made out.

12. Dismissed accordingly.

13. All the pending miscellaneous applications, if any, are also disposed of.

May 01st, 2024

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No