

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****Date of decision: 26.11.2025****RSA-555-2025(O&M)****Babli & Others****...Appellant(s)****Vs.****State of Haryana & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Lajpat Rai Sharma, Advocate
for the appellants.

Mr. Naveen Kumar, Addl. AG Haryana.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the plaintiffs against the concurrent judgments and decrees of the learned Courts below whereby suit filed by the appellants for permanent injunction, has been dismissed by both the Courts below.

2. Brief facts of the case are that Pawan Kumar, husband of appellant/plaintiff No.1 and father of appellants/plaintiffs No.2 and 3, was a physically handicapped person. Accordingly, the defendants had allotted him a Tea Canteen/Khokha in the premises of the Government Hospital, Bhiwani under Handicapped Category vide Memo No.99/2968 dated 16.09.1999. Pawan Kumar had expired on 27.12.2012. After his death, the plaintiff No.1 was running the Tea Stall. Subsequently, she had applied for transfer of the



said Tea Stall in her name vide Application No.415 dated 04.02.2013. In response to which, defendant No.3 had issued letter dated 21.08.2013 directing the appellant/plaintiff No.1 to remove the Canteen from the premises of the Hospital. Accordingly, the plaintiff had filed the present suit dated 26.08.2013 for permanent injunction restraining the defendants from dispossessing the plaintiffs from the Tea Canteen.

3. This matter was heard at considerable length on 28.02.2025, whereupon following order came to be passed:-

*“After hearing learned counsel for both the parties, although it is clear that no right accrues to the appellants/plaintiffs, however, learned counsel for the State is directed to get necessary instructions to find out whether any policy exists in the State of Haryana whereby widowed persons like the appellant No.1 can be accommodated on humanitarian grounds.
Adjourned to 03.7.2025.”*

4. Learned State Counsel on instructions submits that there is no such Policy in the State of Haryana whereby widowed persons like the appellant No.1 can be accommodated on humanitarian grounds. It is further submitted that the case of the appellants was considered and it has been informed vide Memo No.420 dated 01.07.2025 that as per Policy, Canteen/Tea/Juice Stalls and STD Booth is to be allotted to handicaps, war widows, Ex-military personals, Senior Citizen and Freedom Fighter etc. only.

5. No other argument is made on behalf of the parties.

6. I have heard learned counsel and perused the case file in detail.



7. The record reveals that the Tea stall was allotted to Pawan Kumar as per relevant Policy under the Handicapped Category vide Memo No.99/2968 dated 16.09.1999 by the Order of Civil Surgeon. The Canteen was allotted to Pawan Kumar as he fulfilled conditions of allotment. No Policy has been placed on record by plaintiffs to prove that said allotment or licence was inheritable; or that the appellant is entitled to run the Canteen in place of her husband.

8. The record further reveals that the respondents have made best efforts in order to accommodate the appellants. Respondents on receiving application No.415 dated 04.02.2013 on direction of Civil Surgeon sought guidelines from Office of Director General, Health Services whether said Kiosk can be given to appellants. As per Guidelines (Mark D1), Kiosk cannot be allotted to legal heirs of deceased person. Merely because appellants are in possession of Kiosk after death of Pawan and defendants have received rent, they cannot be restrained from taking possession of Canteen after issuing notices to appellants.

9. Relevant findings of the First Appellate Court are contained in Paras 16 and 17 of the judgment dated 22.11.2024, which read as follows:-

“16. Adverting to the case in hand, it is relevant to take notice of the Guidelines dated 09.09.2005, copy of which is Ex.D1. Perusal of the Guidelines it revealed that a kiosk was kept for handicapped, war widows, freedom fighters, senior citizens and Ex-Army personnel. Admittedly, plaintiffs are none among the above mentioned categories of persons. Hence, the



plaintiffs are not entitled for re-allotment of the kiosk in their favour as per the policy guidelines.

17. The plaintiffs sought injunction against the defendants from forcibly dispossession of the kiosk. In order to seek this injunction, it is necessary to prove the possession of the plaintiffs and further wrong and illegal acts of the defendants. The possession of plaintiffs over the kiosk is duly admitted. The plaintiffs alleged the issuance of notice by the defendants as illegal, arbitrary and against the provisions of law. However, there is no substance in the objections of the plaintiffs as the notice dated 21.08.2023 was issued by the PMO after seeking instructions from the higher authorities. Further, the plaintiffs are in possession of the said kiosk being L.Rs. of Pawan Kumar who was successful allottee of the kiosk being handicapped. Thus, the possession is permissive and contingent too. After removal of condition, neither Pawan Kumar nor his L.Rs. are entitled to retain the same. This is what was sought by the defendants vide notice dated 21.08.2013. By no means, the action of defendants can be treated as illegal and arbitrary.”

10. In view of the clear Policy of the defendants, no ground is made out to interfere in the impugned judgments and decrees. Present appeal accordingly stands **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

26.11.2025
Sunena

(Nidhi Gupta)
Judge

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