



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

202

LPA-1459-2015 (O&M)

Date of Decision: 03.12.2025

ADVISER TO THE ADMINISTRATOR UT CHD AND ORS

...Appellants

Versus

KHARAITI LAL AND ANR

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

**Present:- Mr. Jaivir S. Chandail, Addl. Standing Counsel,
for the appellants-U.T. Chandigarh.**

**Mr. Rajiv Kataria, Advocate,
for respondent No.1.**

**Mr. Amit Jain, Senior Advocate with
Mr. Aryaman Thakur, Advocate, for respondent No.2.**

HARSIMRAN SINGH SETHI, J. (ORAL)

CM-3122-LPA-2015

**Prayer in this application is for condonation of delay of 384
days in filing the appeal.**

Notice of the application has already been issued.

**Learned counsel appearing for the respondents have raised no
objection to the prayer made in the present application.**

**In view of the above and for the reasons mentioned in the
application, which is supported by affidavit, the same is allowed and delay**



of 384 days in filing the appeal is condoned.

CM stands disposed of.

LPA-1459-2015

1. In the present appeal, the challenge to the order dated 09.07.2014 passed by the learned Single Judge in CWP-6083-1993, wherein the resumption notice issued to the respondent-tenant Kharaiti Lal and the owner Gurbir Kaur, qua misusing of the premises described as H.No.2, Sector 15-A, Chandigarh, has been set aside.

2. Learned counsel appearing on behalf of the appellants argues that the premises, though residential in nature, could have been used for tailoring purposes only, for which even the permission was granted but it was found that a sale counter had been set up so as to convert the same into a garment shop. Hence, the premises in question was misused keeping in view the purpose for which the same was allotted and the permission granted to the owner/occupant for running tailoring occupation. Learned counsel for the appellants argues that the learned Single Judge has misread the facts so as to come to the conclusion that there was no sale which was taking place in the premises in question and, therefore, erred in holding that the terms and conditions of the permission granted for undertaking tailoring work were never violated.

3. Learned counsel for the appellants further argues that the finding recorded by the learned Single Judge that no notice was issued with regard to the misuse of the premises is incorrect, as in the order dated 02.07.1990 (Annexure P-3) passed by the Estate Officer, Chandigarh, facts have been mentioned that opportunities were afforded to Gurbir Kaur, the owner, and Kharaiti Lal, the occupier of the premises in question, on various



dates thereby satisfying the principle of natural justice. Therefore, on the said account as well, the order passed by the learned Single Judge is incorrect and perverse and therefore, the same is liable to be set aside and the order passed by the authorities resuming the premises in question may kindly be upheld.

4. Learned counsel appearing on behalf of respondent-late Kharaiti Lal, the occupier of the premises, which is being occupied by the legal heir as of now after his death, submits that the permission for using 30% of the premises for tailoring purpose was already accorded by the Chandigarh Administration and the terms and conditions of the permission were duly complied with. The only objection so taken by the Chandigarh Administration to contend that there is a violation of the terms and conditions is that there was a sale counter erected so as to turn said permission into running of a shop, which is incorrect. Learned counsel for the said respondent submits that the table which is being termed as a sale counter is in fact a station which is used by the tailor for the purpose of cutting clothes and the same is not a sale counter in any manner, which fact has rightly been appreciated by the learned Single Judge. Learned counsel for the said respondent further submits that no notice describing the violation was ever served rather only a notice requiring appearance before the authorities was issued, which cannot be treated as a notice so as to rebut the allegations mentioned therein and therefore, the learned Single Judge has rightly held that the order of resumption was passed without giving a proper notice to the parties concerned.



5. Learned counsel appearing for the subsequent purchaser of premises from Gurbir Kaur i.e. the owner of the premises, supports the order passed by the learned Single Judge. It is, however, submitted that as there is already litigation going on between the tenant and the owner, the said process be kept independent of the present proceedings.

6. We have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The first argument which has been raised by learned counsel for the appellants is that the notices were duly issued to the respondents before the passing of order of resumption, dated 02.07.1990 (Annexure P-3). On being asked whether such notices have been brought on record or not, learned counsel conceded that no such notices issued have been brought on record.

8. Further, the second argument advanced is that in the order dated 02.07.1990, it has been mentioned that the owner and the occupier of the property were given opportunities to produce evidence. In this regard, it may be observed that unless specific violations are conveyed to the occupier/owner, they cannot be expected to reply to the said violation, so as to defend themselves. Merely issuing notice for appearance by the Competent Authority does not mean that the same satisfies the criteria of issuing a show cause notice before taking action. Show cause notice means giving the descriptions of the violation at the hand of violator and the violated provisions so as to enable the alleged violator to effectively reply to the same. In the present case, no such notice has been brought to the notice



or produced even before the Appellate Court or produced, so as to hold that notices were issued in a manner required to the alleged violator before taking action.

9. The third argument raised is that there was a sale counter made, which violated the terms and conditions of the permission granted to undertake tailoring work in the premises by consuming 30% of the total area of the building. It may be noticed that the learned counsel for the appellants has brought to the notice of this Court photographs taken yesterday by the Enforcement Department of the Chandigarh Administration to show that there is a violation. A bare perusal of the said photographs would indicate that the table in question is not a sale counter in any manner as the same is placed behind the doors. Further, from the photographs itself, it can be seen that the same is being used for the tailoring purpose i.e. cutting of clothes etc. That being so, the same cannot be termed as a sale counter in any manner to rebut the findings recorded by the learned Single Judge.

10. Even otherwise, a sale counter is only where the articles are lying for sale purpose, whereas, in the present case the premises is used for tailoring purpose which cannot be treated as sale counter in any manner as only the tailoring work is being done in the premises in question, which has not been shown to be perverse to the permission granted by the Chandigarh Administration itself to the owner/occupier of the building.

11. Keeping into the totality of the facts and circumstances, learned counsel for the appellants has not been able to prove that the order dated 09.07.2014 passed by the learned Single Judge is perverse in any manner either on facts or on law or regulations governing the issue. Hence, no



ground is made out for any interference by this Court. The appeal is accordingly dismissed.

12. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

December 03, 2025
harish

(VIKAS SURI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No