



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

Date of Decision : 13.08.2025

RSA No.1174 of 2017 (O&M)

Chandigarh Transport Undertaking & OthersAppellants

Versus

Darshan SinghRespondent

RSA No.1194 of 2017 (O&M)

Chandigarh Transport Undertaking & OthersAppellants

Versus

Darshan SinghRespondent

RSA No.996 of 2017

Darshan SinghAppellant

Versus

Chandigarh Transport Undertaking & OthersRespondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Aman Pal, Senior Panel Counsel, U.T., and
Mr. Ekakshra Mahajan Mandhar, Panel Counsel, U.T.,
for the appellants in RSA Nos.1174 & 1194 of 2017 and
for the respondents in RSA No.996 of 2017.

Mr. Amit Jaiswal, Advocate
for the respondents in RSA Nos.1174 & 1194 of 2017 and
for the appellant in RSA No.996 of 2017.

PANKAJ JAIN, J. (Oral)

This is a bunch of three appeals arising out of same suit.

2. Plaintiff filed suit seeking decree of declaration and rendition of
accounts.



3. The suit filed by the plaintiff was ordered to be decreed by the Court of the First Instance.

4. Defendants filed appeal. Plaintiff filed cross-objections against order passed by the Trial Court, directing the plaintiff to pay cost of inquiry.

5. Lower Appellate Court dismissed the appeal preferred by the defendants and allowed the cross-objections filed by the plaintiff.

6. RSA No.1174 and RSA No.1194 of 2017 have been preferred by the defendants challenging the dismissal of appeal and allowing of cross-objections.

7. Plaintiff has filed RSA No.996 of 2017 against denial of interest on the decreed amount from 20.04.2007 onwards.

8. Plaintiff filed suit seeking decree of declaration to the effect that order dated 13.04.2007 passed by defendants, is illegal null and void having been passed at the back of the plaintiff. Plaintiff further sought declaration *qua* his entitlement to recover amount of Rs.3,36,000/- lying in FDR.

9. Plaintiff successfully participated in an open auction conducted by defendants on 16.05.2006 for awarding contract of car parking at Inter State Bus Terminal, Sector 17, Chandigarh. His bid was accepted. He was put in possession of car parking for 11 months commencing from 20.05.2006 till 19.04.2007. Four months rent amounting to Rs.3,36,000/- in the shape of FDR was pledged as security. As per plaintiff, one Jaswant Singh parked his car in the parking. On 09.07.2006 when he came to take his car back, he refused to pay the parking charges claiming himself to be an officer. There was a dispute. Plaintiff was served with Show Cause Notice dated



08.09.2006 calling upon as to why he should not be imposed with a fine of Rs.5,000/- for over-charging Jaswant Singh. Plaintiff was fined. He paid the same. On 18.03.2007, one Municipal Councilor also had a tiff with the plaintiff for payment of parking charges. FIR No.14 dated 18.03.2007 was registered against the plaintiff, for offences punishable under Section 323, 506, 34 IPC at Police Station Sector 17, Chandigarh, falsely implicating the employees of the plaintiff. Plaintiff was served with another Show Cause Notice dated 03.04.2007. The plaintiff filed his reply. Plaintiff was called for personal hearing. Due to his ailment, plaintiff could not appear on 11.04.2007. A written request along with medical certificate was submitted through a special messenger. The letter was accepted. He was told that the next date will be communicated afterwards.

In the first week of April, 2007, plaintiff was not allowed to deposit rent for the month of April, 2007. On 16.04.2007, the plaintiff offered to hand-over possession of the car parking on expiry of the contract on 19.04.2007. Possession of the car parking was handed-over on 18.04.2007. However, security was not released. In September/October, 2008, plaintiff came to know that FDR pledged as security stands released. Plaintiff claims to have served legal notice, dated 05.02.2009, calling upon for release of the security amount which remained un-responded. Plaintiff claims that on 09.02.2011, he sought information under RTI Act. After receiving response of the application filed under RTI, the plaintiff came to know that defendant No.3 passed order dated 13.04.2007 whereby his security deposit has been ordered to be forfeited and the plaintiff stands



blacklisted. Plaintiff filed present suit on 14.11.2011 impugning action of the defendants seeking decree of declaration to the effect that order dated 13.04.2007 passed by defendant No.3 forfeiting the security deposit, is illegal, null and void. Order was passed at the back of the plaintiff. Even copy thereof was never served on the plaintiff.

10. Suit was contested by the defendants. Defendants pleaded that complaint was received by one Jaswant Singh Officer on Special Duty regarding plaintiff over charging for the parking. Show cause notice was issued to the plaintiff. The plaintiff was penalized and a fine of Rs.5,000/- was imposed. Receipt of communication dated 16.04.2007 was admitted. However, defendants claimed that once contract already stood cancelled on 13.04.2007, there was no justification for the said communication. It was further claimed that the order dated 13.04.2007 was communicated to the plaintiff, who was in the knowledge of the same.

11. On the basis of the pleadings, Court of the First Instance framed the following issues:

- “1. Whether the plaintiff is entitled for declaration as prayed for?OPP
2. Whether the plaintiff is entitled for rendition of accounts? OPP
3. Whether the present suit is not maintainable?OPD
4. Relief.”

12. Court of the First Instance after analyzing evidence on record threadbare found that the defendants failed to prove communication of order dated 11.04.2007 and 13.04.2007 to the plaintiff. On 11.04.2007, adjournment was sought by the plaintiff on the ground of ailment.



Immediately thereafter, order was passed on 13.04.2007 without giving any right of hearing to the plaintiff or communicating that his defence stands closed. Order dated 13.04.2007 was passed at the back of the plaintiff. The same was never communicated to him. Accordingly, the Court found that the action of the defendants being violative of the principles of nature justice, cannot be sustained and deserves to be quashed. However, the Court of the First Instance found that the defendants are entitled to deduct rent for the month of April, 2007, water and electricity charges against due receipts from the security deposits. Trial Court found defendants entitled to deduct Rs.5,000/- as cost of departmental inquiry initiated against the plaintiff under Show Cause Notice dated 20.03.2007 pursuant to which *ex parte* order dated 13.04.2007 passed. Trial Court thus decreed the suit filed by the plaintiff in part.

13. Dissatisfied defendants preferred appeal.

14. Plaintiff filed cross-objections.

15. Lower Appellate Court affirmed the findings recorded by the Trial Court and allowed the cross-objections holding that since there was no separate inquiry conducted by the defendants. Issuance of show cause notice and the ensuing proceedings being part of the official work, respondents were not entitled to recover cost of enquiry.

16. Mr. Aman Pal, Sr. Panel Counsel has assailed the findings recorded by the Courts below. The solitary contention raised by him is that the suit is barred by limitation. He submits that by filing the present suit on 14.11.2011, the plaintiff sought declaration against order dated 13.04.2007.



He submits that under Article 58 of the Limitation Act, the prescribed period of limitation to seek declaration is three years. The suit having been filed beyond period of three years from the date of passing of the order, the same is barred by time. He submits that the Courts below erred in decreeing a suit which was evidently barred by time. He refers to statement of PW1 Hardev Singh, Senior Assistant, CTU, Chandigarh, who stated as under:

“It is correct that the order of termination dt.13.4.07 was delivered to plaintiff and he was directed to hand over the vacant possession of the aforesaid parking to Station Supervisor ISBT Sector 17 Chd. Volt. Darshan Singh refused to accept this letter and letter was pasted on the door. A public notice Ex.D1 was also issued to be published in local newspaper through DPR Chd. vide letter Ex.D2 and public notice prepared by department is Ex.D3. It is correct that it was in knowledge of plaintiff on 13.4.07 that his license of car parking was terminated on 13.4.07 and his surety amount was also forfeited due to violation of terms and condition of license deed. Order of termination is Ex.PW1/27 which was issued by Sh.P.S. Shergill Divisional Manager CTU and Director Transport Chd. It is also correct that a video CD was also prepared, which contains the pasting of public notice. However, the order was passed within the knowledge of plaintiff regarding Ex.PW1/27.”

16.1. Referring to the aforesaid statement, he submits that the communication of the order, stands proved. After plaintiff refused to receive the order of termination dated 13.04.2007, the same was pasted on his door. Public Notice, Exhibit D-1, was also issued in local newspaper.

17. On being asked regarding any evidence in form of official noting *qua* affixation of letter on the house of the plaintiff, Mr. Aman Pal has very fairly conceded that there is no such evidence brought on record.



Surprisingly, after the defendants claim that the plaintiff refused to accept termination order dated 13.04.2007, no effort was made to serve the same upon plaintiff by way of registered post or any other effective mode of service. The defendants claim that the letter was affixed on the door of the house of the plaintiff. Apart from bald statement, there is no evidence to prove affixation. Neither any official noting has been produced to prove the affixation nor the person who affixed the letter on the door, was examined. Even the public notice claimed to have been published in newspaper, remained unproved. Otherwise also, this Court finds that issuance of public notice in the newspaper being a weak mode of service, it cannot be accepted. There is no evidence that any effort was made by defendants to serve order of termination on the plaintiff by an effective mode like registered post, speed post etc. The limitation to file suit for declaration is governed by Article 58 of the Limitation Act, 1963. The same reads as under:

	Description of suit	Period of limitation	Time from which period begins to run
58.	To obtain any other declaration	Three years	When the right to sue first accrues.

18. The limitation shall commence from the day when the right to sue first accrues. The plaintiff seeks declaration that the order dated 13.04.2007 is illegal and bad. The right to sue for declaration against the same shall commence from the day the order comes to the knowledge of the plaintiff. As per the averment made in the plaint, the plaintiff came to know of the order on 25.05.2011 when he received response to his RTI application. The defendants have failed to prove service of the order upon the plaintiff.



Accordingly, this Court finds no ground to interfere in the findings recorded by the Courts below that the suit was filed within the prescribed period of limitation.

19. No other point has been raised.

20. Finding no merit in the present appeals preferred by the defendants, i.e., RSA Nos.1174 & 1194 of 2017, the same are ordered to be dismissed.

21. In appeal preferred by plaintiff, he seeks interest on the security amount. The order passed against the plaintiff forfeiting his security amount having been declared to be illegal, null and void, the Courts below ought to have granted interest on the same as the amount was utilized by the defendants during this period.

22. In view of above, the appeal preferred by the plaintiff, i.e., RSA No.996 of 2017, is allowed. Plaintiff is held entitled to interest @ 6% per annum on the amount of FDR released by the defendants from the day of release from bank till the same is paid to the plaintiff.

23. Pending application(s), if any, shall also stand disposed off.

24. A copy of this order be kept on the files of other connected cases.

August 13, 2025

Dpr

**(Pankaj Jain)
Judge**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No