

## The Co-operative Marketing-cum-Processing Society Vs Nagar Palika and Another

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** May 17, 1995

**Acts Referred:** Transfer of Property Act, 1882 & Section 108

**Citation:** (1995) 111 PLR 549

**Hon'ble Judges:** Jawahar Lal Gupta, J

**Bench:** Single Bench

**Advocate:** B.S. Khoji, for the Appellant; B.S. Bhasaur, for the Respondent

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

Jawahar Lal Gupta, J.

In the year 1968, the appellant got land from the Municipal Committee on lease for 99 years. It raised construction thereon. The lease was cancelled and ejectment orders were passed against the appellant on January 7, 1983 and December 5, 1984. The shops

were then leased out to Krishan Chand etc. After having been evicted from the shops in question, the appellant-society filed a suit for recovery of

Rs. 100917.36 paise as the cost of construction raised by it. The suit and the appeal having been dismissed, it has come to this Court in the

present second appeal. Notice of motion was issued to the respondents. They have appeared.

2. Counsel for the parties heard. It is the admitted position that the lease of land allotted to the appellant for 99 years was unilaterally cancelled in

the year 1983-84. The plea raised on behalf of the Committee is that the appellant can remove the rubble and it is not entitled to the recovery of

the amount. Mr. Khoji learned counsel for the appellant states that the society is willing to remove the rubble but in case the Committee cannot

hand over vacant possession of the shops to the appellant, it should pay the cost of construction which has been fixed at Rs. 100917.36 paise.

3. The contention raised on behalf of the appellant is just and fair. It is the admitted position that the society has raised construction. It is

consequently entitled to remove the material or recover the cost thereof. In this view of the matter, the judgment and decree under appeal are set

aside. It is directed that the respondents shall hand over vacant possession of the premises to the appellant so as to enable it to remove the rubble.

This will be done within six weeks from today. In case, the respondents fail to hand over vacant possession, they will pay Rs. 100917.36 paise. In

case, the payment is not made within two months from today, the appellant shall be entitled to recover the amount with interest at the rate of 12%

P.A. from the date of its eviction till the date of actual payment.

4. The appeal is allowed and is disposed of is the above terms.