

(1995) 05 P&H CK 0013

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular Second Appeal No. 3133 of 1994

The Co-operative
Marketing-cum-Processing
Society

APPELLANT

Vs

Nagar Palika and Another

RESPONDENT

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.