

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****106****RSA-5873-2019 (O&M)****Date of decision: 24.02.2025****Rajesh Kumar and another****...Appellant(s)****Vs.****State of Haryana and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vaibhav Jain, Advocate for the appellants.

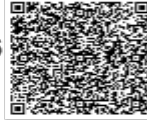
Mr. Satish Singla, A.A.G., Haryana.

NIDHI GUPTA, J.

The present appeal has been filed by the plaintiffs against the concurrent judgments and decrees of the learned Courts below, whereby the suit of the plaintiffs for Permanent Injunction, has been dismissed by both the Courts below.

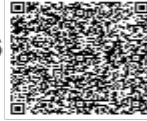
2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiffs'; and the respondents are the 'defendants'.

3. The brief facts of the case as set out in the plaint, are that the plaintiffs were having no house to reside. On the applications moved to defendant No.1, the suit house, consisting of two rooms, latrine, bathroom, baramda, was given to them in the year 2012 which was near the Community Center. After that the plaintiffs moved a complaint No.271 of



2014 to Lokayukta, Haryana, Chandigarh and Lokayukta passed an order on 27.07.2015, as per which the suit house was given to the plaintiffs, by defendant No.1, for residence, on the pretext of humanity and sympathy and plaintiffs are residing there along with their children. Plaintiff No. 2 Murti Devi has been working as Sweeper in the said Community Center continuously and for the same, she has not obtained any salary from Municipal Council i.e. defendant No.2 and the defendants are bent upon to eject them from the suit house illegally, forcibly, against law and without knowledge of plaintiffs and to construct a shed on the said house for which they have no right to do so. If the defendants are not restrained from doing so, they would suffer irreparable loss which would not be compensated in any terms later on. Further, it is submitted that defendants be restrained from ousting them from the suit property and constructing shed on the suit property. Plaintiffs requested the defendants many times not to do so but all in vain. Hence, the present suit.

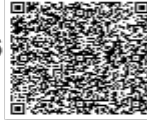
4. Upon notice, the defendants appeared and filed written statement resisting the suit by submitting that the plaintiffs are in illegal encroachment of the suit property. They have no right, title or interest in the suit property. Defendants are the absolute owners in possession of the suit property. In the winter period on the folded hand requests of the plaintiffs, they were allowed to reside in the suit property for few days on grounds of humanity. It has been further alleged that the Community Center i.e. the suit property is meant for the public purposes and in the suit property, the public interest is involved and the same is meant for the



common use of general public to organize marriage function, cultural function etc., from time to time and in the winter period, when the applicants/plaintiffs were having no place to reside with their children of tender age, the accommodation was provided to them on the ground of humanity and it was specifically told to them that they could reside there, till their arrangement of accommodation at any other place but they with the malafide and dishonest intention, are bent upon to grab the suit property. If other persons started to possess the public property, then it would cause great loss to the Government Department. The plaintiffs have no right, title or interest in the suit property and the defendants are legally entitled to get the suit property vacated from them. Denying rest of the averments made in the plaint, a prayer for dismissal of the instant suit was made.

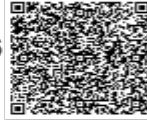
5. No replication was filed by the plaintiffs.
6. On the basis of the pleadings of the parties, following issues were framed for adjudication:-

- 1. Whether the plaintiffs are entitled to a decree for permanent injunction, as prayed for?OPP.*
- 2. Whether the suit of the plaintiffs is not maintainable in its present form, due to concealment of true and material facts from the Court?OPD.*
- 3. Whether the plaintiffs have no cause of action and locus standi to file the present suit?OPD.*
- 4. Whether the plaintiffs are estopped by their own act and conduct to file the present suit?OPD.*
- 5. Relief.”*



7. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided issue No. 1 against the plaintiffs and in favour of defendants; and issues No. 2 to 4 were disposed of being not pressed as not proved, as onus to prove these issues were upon the defendants. Resultantly, suit of the plaintiffs was dismissed with costs by the learned trial Court vide judgment and decree dated 28.03.2018. The appeal filed by the plaintiffs against the said judgment and decree dated 28.03.2018 was dismissed by the learned Additional District Judge, Fatehabad vide judgment and decree dated 06.08.2019. Hence, the present second appeal.

8. Learned counsel for the appellants/plaintiffs *inter alia* submits that in non-suiting the plaintiffs, the learned Courts below have failed to appreciate the relevant evidence brought on record by the appellants. The plaintiffs had duly proved before the learned Courts below through oral as well as documentary evidence that they are not having house to reside. The suit house consisting of 2 rooms, latrine, bathroom, baramda was given to them in the year 2012, which was near the Community Centre. After that plaintiffs had moved a complaint to Lokayukta Haryana, Chandigarh, who passed order dated 27.7.2015, as per which the suit house was given to the plaintiffs by defendant No. 1 on the ground of humanity. Thereafter, plaintiffs are residing there along with their children. Plaintiff No.2 works as a Sweeper in the said Community Centre. In fact, she has not received any salary from the Municipal Council i.e Defendant No.2 in lieu of residing in the suit house. The plaintiffs will suffer irreparable loss, in case they are



ousted from the suit house. It is accordingly prayed that the present appeal be allowed; and impugned judgments and decrees be set aside.

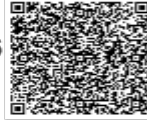
9. Ld. counsel for the defendants opposes the prayer made on behalf of the plaintiffs and submits that plaintiffs are in illegal encroachment of the suit house since the year 2012. The said suit house was given to them only for winter on the ground of humanity as they had small children with them. However, the plaintiffs have now sought to grab the suit house which cannot be permitted as the same is public property. It is accordingly prayed that the present appeal be dismissed being devoid of merit.

10. No other argument has been raised by learned counsel for the parties.

11. I have heard learned counsel for the parties and perused the case file in great detail.

12. It has been contended on behalf of the plaintiffs that they have no other place to reside; that the plaintiff No.2 is working as a Sweeper at the Community Centre without any salary from the Municipal Council/defendant No.2; and that as per order dated 27.07.2015 passed by the Lokayukta Haryana, Chandigarh, suit house is given to the plaintiffs.

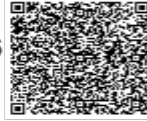
13. I find no merit in the above said arguments raised on behalf of the plaintiffs. It has been admitted by learned counsel for the plaintiffs before this Court that the suit property is public property being Community Centre. Admittedly, the suit property belongs to State Government which was meant for use by local public. The plaintiffs were given permission to



reside in the suit property only for a short time to save them and their minor children from the rigours of the winter on the humanitarian and sympathetic grounds. Nothing to the contrary has been shown to this Court by learned counsel for the plaintiffs. Needless to say, no right title or interest would devolve upon the plaintiffs on the basis of said humanitarian and compassionate gesture.

14. As regards the reliance played by the plaintiffs upon the alleged order dated 27.7.2015, the file reveals that no such order was exhibited or proved by the plaintiffs before the learned Courts below, or even before this Court. A copy of one order dated 27.7.2015 was produced by the plaintiffs before the learned trial Court, as per which the matter was sent back to the D.C., Fatehabad to decide the claim of the plaintiffs sympathetically by the District Administration.

15. Further, it may be pointed out that vide order dated 22.08.2023, direction was given by this Court to the learned counsel for the State to *“find out any policy framed by the State of Haryana or the Union of India, which is for the purpose of providing shelter to the poor persons like the plaintiffs (appellants herein)”*. The State Government on 25.09.2023, had informed the Court that there is a scheme namely, **Mukhyamantri Shehri Awas Yojana, Haryana (13.09.2023 till 19.10.2023)** and time was granted to learned counsel for the plaintiffs to go through the said policy/scheme. Thereafter, the matter had been adjourned thrice at request of learned counsel for the appellants/plaintiffs on one pretext or the other.



However, no information is forthcoming on behalf of the plaintiffs in this regard.

16. Keeping in view the above undisputed facts, the present regular second appeal is hereby **dismissed**.

17. Pending applications, if any, stand disposed of.

24.02.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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