
(2011) 11 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1384 of 2010

Gurdev Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Citation : (2013) 1 SLJ 350

Hon'ble Judges : A.N. Jindal, J

Bench : Single Bench

Advocate : Gaurav Deep Goel, for the Appellant; Baljinder Singh Sra, Addl. A.G., for the Respondent

Final Decision : Dismissed

Judgement

A.N. Jindal, J.—This appeal is directed against the judgment dated 11.02.2009 passed by the Additional District Judge, Bathinda, dismissing the appeal preferred by the plaintiff-appellant (hereinafter referred as "the plaintiff") against the judgment dated 08.08.2008 passed by the Civil Judge (Junior Division), Bathinda, dismissing his suit for declaration for setting aside the order No. 9680 dated 22.08.2003 with regard to deduction of the penal rent to the tune of Rs. 1,66,030/- and not to deduct the penal rent from his retiral benefits. The factual matrix of the case is that the plaintiff was employed with the Punjab Police and was posted at Bathinda and he was allotted Quarter No. H-70 by the House Allotment Committee, Bathinda. In October 1995, he was transferred to Sangrur and on 06.10.1995, he joined his duties at Sangrur. On transfer, he vacated the house in question within the stipulated period of two months from the date of his transfer. Thereafter, he never stayed in the said house. On 15.07.1996, he was transferred to 36 Battalion P.A.P. Bahadurgarh from Sangrur, but he could not join his duties up to 16.05.1997 due to ill health. As such, this period of his absence was treated as leave period. Thereafter, defendant-respondent No. 5 issued notice No. 2375 dated 06.08.1998 and defendant-respondent No. 3 issued order No. 13428 dated 18.09.1998 for recovery of Rs. 1,66,030/- on account of

his overstay in the Government Accommodation at Bathinda after his transfer, alleging that he had not vacated the said house within a stipulated period of two months from the date of his transfer. The said notice as well as order for recovery was challenged by him before the Civil Court at Bathinda and the suit was decided in his favour. The appeal filed by the State Government was dismissed on 01.02.2003. However, thereafter, the defendants passed an order No. 9680 dated 22.08.2003 for recovery of Rs. 1,66,030/- from the pensionary benefits of the plaintiff. On account of non-payment of this penal rent, the defendants also withheld all his retiral and pensionary benefits such as GPF, gratuity, pension etc. Even according to the judgment and decree dated 01.02.2003 passed by the Additional District Judge, Bathinda, the recovery could be effected only after issuing due notice to the plaintiff. As such, the plaintiff challenged the said notice being illegal and void.

2. The defendants-respondents (hereinafter referred as "the defendants") contested the suit by filing written statement, wherein it was alleged that the plaintiff overstayed in the quarter in question after stipulated period from the date of his transfer and handed over the possession of the said quarter to the concerned authority on 31.07.1998. It was further alleged that the Competent Authority after issuing recovery notice dated 21.08.2003 for recovery of Rs. 1,66,030/- upon the plaintiff and after due compliance of the directions as envisaged vide judgment and decree dated 01.02.2003 passed by the Additional District Judge, Bathinda, the recovery of penal rent was imposed and further ordered to deduct the same from the retiral benefits, consequently, the defendants prayed for dismissal of the suit.

3. Defendant No. 6 also contested the cause while submitting about the unauthorized possession of the Government Quarter by the plaintiff by way of overstay. It was further pleaded that the Chairman House Allotment Committee, Bathinda, had issued a notice No. 9680/Misc. Branch dated 22.08.2003, describing that as per Punjab Housing Allotment Rules, 1983, the penal rent of Government Quarter No. 70 for the period, he overstayed, comes to Rs. 1,66,030/- and he was directed to deposit the same in the concerned Head of Account within 15 days. Having failed to comply with the terms of notice, defendant No. 6 had passed the order dated 12.01.2004 for deduction of penal rent from the retiral benefits. Without describing the earlier judgment dated 01.02.2003 passed by the Addl. District Judge, Bathinda, it was alleged, that the Secretary, House Allotment Committee, Bathinda, had issued a notice No. 9680/Misc. Branch dated 22.08.2003, which was received by his wife, on 18.09.2003. Since the plaintiff had retired on 31.03.2003 without depositing the penal rent, the only cause for the defendants was to recover the same from his retiral benefits.

4. From the pleadings of the parties, following issues were framed by the trial Court:--

Both the parties led evidence. Both the Courts, while returning the findings of

fact that the plaintiff had overstayed in the Government house and the rent was liable to be deducted from his retiral benefits, decided against the plaintiff.

Arguments heard. Record perused.

5. Having heard the rival contentions, it is not in dispute that the plaintiff was allotted the Government House No. 70 at Bathinda and on his transfer, he did not vacate the house till 31.07.1998. It is also proved that he overstayed in the Government house from 06.10.1995 to 31.07.1998. Satish Kumar Goyal, Sub Divisional Engineer (DW-2), in his statement has disclosed that the plaintiff failed to vacate the said premises within the stipulated period, as such, he was bound to pay the penal rent. As per calculations of the defendants, the penal rent from 06.10.1995 to 31.07.1998 at the rate of Rs. 5220/- per month, comes to Rs. 1,66,030/-. The Competent Authority had issued recovery notice dated 22.08.2003 for recovery of the said penal rent from the plaintiff, but he refused to receive the same, therefore, he was bound to pay the market rent for the period, he overstayed.

6. On his transfer to Sangrur, the plaintiff had no legal right to stay in the Government Quarter after the expiry of stipulated period. Satish Kumar Goyal (DW-2), in his statement, has proved the market rent, which was determined vide Ex. P12. Efforts to serve the notice upon the plaintiff were made, but he declined to receive the same and thereafter, slipped away, as such, it cannot be held that he was not properly served. The findings recorded by the Courts below do not suffer from any infirmity. The assessment of rent has been detailed in Ex. D8 and the same is chargeable from the plaintiff on account of overstaying in the Government Quarter. On perusal of the entire record, it transpires that the plaintiff has failed to establish, as to if he was not bound to pay the penal rent and the defendants could not recover the penal rent from the gratuity to be paid to him. No substantial question of law arises for determination by this Court.

Dismissed.