
(1985) 07 P&H CK 0006

In the Punjab And Haryana At Chandigarh

Case No : Civil Regular Second Appeal No. 160 of 1977

Hem Raj

APPELLANT

Vs

State of Punjab and another

RESPONDENT

Date of Decision : 31-07-1985

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 10 Rule 1

Citation : (1985) 07 P&H CK 0006

Hon'ble Judges : D.V. Sehgal, J

Bench : Single Bench

Advocate : H.L. Sarin and Mr. M.L. Sarin, for the Appellant; K.K. Cuccria, for A.G. (Pb.), for the Respondent

Final Decision : Dismissed

Judgement

D.V. Sehgal, J.—This regular second appeal arises out of the judgment and decree dated 24-12-1976 of the learned District Judge, Sangrur, whereby he set aside the judgment and decree dated 29-4-1976 passed by the trial Court and dismissed the suit of the Plaintiff Appellant. Hem Raj Appellant had filed the suit for the recovery of Rs. 4050/- towards rent for the period from 1-6-1972 to 31-8-1974 at the rate of Rs. 150/- per month in respect of an open plinth taken on lease by the District Food and Supplies Controller, Sangrur, through his Inspector for storing wooden crates of the Food and Supplies Department, Punjab, and had further claimed interest on the amount of rent at the rate of 1% per month from the date of accrual of the rent till the date of the institution of the suit. The suit in its entirety was decreed by the trial Court for Rs. 4414.50. The learned District Judge, Sangrur, has held that the lease of the plinth area by Hem Raj Plaintiff to the Food and Supplies Department, Punjab, is not proved and it is solely on this score that the judgment and the decree of the trial Court has been set aside.

2. Mr. M.L. Sarin, the Learned Counsel for the Plaintiff, has brought to my notice the statement of Naranjan Singh Inspector, Food and Supplies Department,

Sangrur, which was recorded by the trial Court on 18-10-1973 before framing of issues under Order X. Rule 1, CPC In this statement the said Inspector has admitted his signatures on the documents Exs. P-1 and P-2. Ex. P-1 is a printed form which is styled as "Form PR 96" which, on going through its contents, shows that it is prescribed by the Food and Supplies Department for execution by the owner, i.e. the landlord when some premises is taken on lease from such a landlord by the Food and Supplies Department, Punjab, Ex. P-1 undisputedly bears the signatures of Hem Raj Plaintiff as also of Sh. Naranjan Singh, Inspector, Food and Supplies Department, Sangrur. Another fact to which my attention has been drawn is that after recording the aforesaid statement, when the trial Court framed issues on 20-10-1975 it was specifically recorded that the question regarding taking of the godown on rent was admitted in view of the statement under Order X, Rule 1, C.p.C. and hence no issue was struck on this point. Even otherwise the pleadings of the parties bear out that while there is specific assertion in para 1 of the plaint that the open plinth in question was taken on lease by the Defendants at the rate of Rs. 150/- per month, the written statement contains only evasive denial to this particular paragraph and the ground for this evasive denial is want of knowledge. In view of the categorical statement before framing of issues made by Naranjan Singh, Inspector, Food and Supplies Department, there was no scope left for the Defendants to deny the lease at any later stage. The learned District Judge has over looked the above aspects of the case and although there was no issue arising out of the pleadings with regard to the factum of lease the learned District Judge has denied the claim of the Plaintiff by holding that there was no lease of the open plinth in question.

3. In view of the above, I find it imperative to set aside the judgment and decree of the learned District Judge, Sangrur, and to restore the judgment and the decree of the trial Court. I order accordingly. Since the payment of legitimate dues to the Plaintiff has been denied by the Defendants for nearly 11 years, I award future interest on the principal amount of Rs. 4050/- at the rate of 6% per annum from the date of the decree of the trial Court, i.e. 29-4-1976, till the realisation of the decretal amount along with interest as now awarded. The Plaintiff will also get costs throughout.