

(2019) 05 P&H CK 0238
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3527 Of 2019

Mohammad Yasin

APPELLANT

Vs

Abdul Latif Ex. M.C. And Another

RESPONDENT

Date of Decision : 27-05-2019

Acts Referred:

Punjab Municipal Act, 1911 — Section 59A, 172A
Code Of Civil Procedure, 1908 — Order 39 Rule 1, Order 39 Rule 2

Citation : (2019) 05 P&H CK 0238

Hon'ble Judges : Sudip Ahluwalia, J

Bench : Single Bench

Advocate : G.S.Bhatia

Final Decision : Dismissed

Judgement

1) This revision is directed against the decision of the impugned judgment of the learned Additional District Judge, Sangrur in CAO No. 191 of 6th October, 2017 dated 02.05.2019 (Annexure P-7).

2) Vide the impugned order the learned Additional District Judge has set aside the previous order dated 15.9.2017 (Annexure P-4) passed by the learned Civil Judge, Jr. Divn. Malerkotla in Civil Suit No. 224 dated 4.7.2017, vide which an application under Order 39 Rule 1 and 2 filed by the petitioner-plaintiff praying for temporary injunction to restrain the respondent from dispossessing/ interfering in petitioners peaceful possession over the disputed shop No. 9 situated on Club Road, Malerkotla was allowed.

3) The petitioner had filed the suit for permanent prohibitory injunction to restrain the respondents, being one Abdul Latif, Ex. Municipal Counselor and the Executive Officer, Municipal Council, Malerkotla from interfering with his peaceful possession in the aforesaid shop by contending that he had deposited the requisite amount of Rs.1000/- in pursuance of Notification No.8/7/2015-5L.G.3/891539/1 dated 14.12.2016 issued by Government of

Punjab, exercising powers under Section 59-A & 172-A of Punjab Municipal Act, 1911, to transfer proprietary rights of disputed Shop No. 9.

4) His case was however, resisted on behalf of the respondents-defendants who contended that he had forcibly taken possession of the said shop which had been lying vacant, although he had been granted valid lease/license only in respect of the adjoining shop No.10.

5) As it transpires now it was nowhere the case of petitioner that the disputed shop No. 9 was allotted in his favour by the competent authority i.e. Municipal Council at any given point of time. Thus by carefully analyzing his own averments, it becomes clear that he had taken over the possession unauthorisedly and had thereafter sought to get such unauthorised possession legalized by way of depositing the requisite amount of Rs. 1000/- in terms of the notification mentioned above, although the benefit of grant of proprietary rights in terms of the concerned scheme was restrained only to valid "licensees or lessees" under the authorities.

6) Clearly, the petitioner was guilty of trying to mislead the Trial Court by seeking to imply that he has some kind of legitimate interest and possession in the disputed shop and even managed to get an order of temporary injunction from the Trial Court which was however, rightly set aside by the learned Appellate Court, once it became clear that he had taken over possession of the shop unauthorizedly and therefore, could not seek the injunction against its true owner i.e. respondent No.2.

7) For the aforesaid reasons this Court finds no ground to interfere with the impugned order.

8) The revision is therefore dismissed.