

the said order of the Labour Court and Law Officer through whom this petition has been filed was not competent to take such a decision and to maintain this petition.

(2) To meet the contentions raised by the learned counsel for the respondent. Mr. Chopra the learned counsel for the petitioner refers to bye-law 27 of the Bye-laws framed by the abovenoted Federation; the relevant part thereof is as under :—

“The Managing Director of the Federation shall have the following powers and duties :—

(viii) to sue and be sued in the name and on behalf of the Federation when authorised to do so by the Executive Committee.”

Concededly the Executive Committee is constituted by the Board of Directors under Bye-law 23, which says that one of the duties of the Board of Directors shall be to appoint an Executive Committee and an Administrative Committee. The learned counsel is not in a position to refer to any decision or resolution of the Executive Committee authorising the Managing Director, much less the Law Officer through whom this petition has been filed to impugn the order in question. It, therefore, is patent that at no stage any competent authority took the decision to challenge the impugned order of the Labour Court before this Court. I am, therefore, of the considered view that the present petition is not maintainable and the same is, therefore, dismissed. No costs.

P.C.G.

Before : I. S. Tiwana, J.

OM PARKASH GOYAL.—Petitioner.

versus

RAM KRISHAN CHHOKAR,—Respondent.

Civil Revision No. 2346 of 1990

14th January, 1991.

Code of Civil Procedure, 1908—S. 115, O. 39, Rls. 1 & 2—Tenant in possession of partially constructed house—Landlord wishing to construct unbuilt portion of permissible area—Suit by landlord restraining tenant to interfere with his rights—Tenant—Whether a tenant of entire premises—Findings of Appellate Court upheld.

Om Parkash Goyal v. Ram Krishan Chhokar (I. S. Tiwana, J.)

Held, that the appellant is a tenant not only on the constructed portion, but also on the vacant portion of that property in the shape of kitchen garden, front and back lawns and the path way. He is in possession thereof as a tenant in his own right and unless he is ejected from the demised premises in accordance with law, the landlord cannot force his entry into the property. Of course, the landlord has a right to inspect the premises, at reasonable hours with the permission of the tenant.

(Para 2)

Petition u/s 115 CPC for revision of the order of the Court of Shri Babu Ram Gupta, Additional District Judge, Chandigarh, dated 29th May, 1990, reversing that of Shri T. R. Bansal, Sub-Judge, 1st Class, Chandigarh, dated 13th February, 1990 dismissing the application for temporary injunction filed by the plaintiff, Shri O. P. Goyal, and directing the parties to appear before the learned trial Court on 4th June, 1990.

CLAIM : Injunction for construction of vacant portion of house.

CLAIM IN REVISION : For reversal of order of both the Courts.

Nemo, for the Petitioners.

Nemo, for the Respondents.

ORDER

I. S. Tiwana, J. (Oral)

(1) Briefly the facts of the case are as follows:

The petitioner having purchased House No. 1199, Sector 8-C, Chandigarh, has become its owner and the same is under the tenancy of the defendant-respondent since February, 1969. Undisputably, it is a partially constructed house, i.e., area measuring 845 sq. ft. has been constructed whereas, as per the rules and regulations, an area to the extent of 2000 sq. ft. can be constructed. The total area of the plot is 500 sq. yards. The petitioner wants to construct the unbuilt part of the permissible area. Since the respondent-tenant resisted this effort of the petitioner, the latter filed a suit for permanent injunction restraining the respondent-tenant from interfering in the rights of the petitioner to visit and inspect the premises and to take all steps, including the construction activity over the vacant portion of the dismissed premises. Along with the plaint, he filed an application under Order 39, rules 1 and 2, Civil Procedure Code, for the grant of *ad interim* injunction. Though initially the trial Court allowed this prayer made by the petitioner, yet on appeal the learned Additional District Judge, Chandigarh, has dismissed the above noted application filed by the petitioner.

(2) Having perused the orders of the two Courts below, I find that the one passed by the Appellate Court is wholly sustainable. The material factual finding recorded by the Court in this regard is to the following effect:

“From this *prima facie* it becomes clear that the appellant is a tenant not only on the constructed portion, but also on the vacant portion of that property in the shape of kitchen garden, front and back lawns and the path way. His possession over the entire property cannot be disputed by the plaintiff because the plaintiff has himself pleaded that his Architect on one occasion and he and his Architect on the other occasion were not allowed by the appellant to enter the demised premises for preparing the site plan of the constructed portion. The appellant cannot be said to be a licensee over the disputed property. He is in possession thereof as a tenant in his own right and unless he is ejected from the demised premises in accordance with law, the landlord cannot force his entry into the property. Of course, the landlord has a right to inspect the premises, at reasonable hours with the permission of the tenant and this has been so accepted by the appellant in his written statement”.

This appears to be the correct enunciation of the legal position, as discussed by the lower Court. Therefore, I do not see any merit in this petition and the same is dismissed but with no order as to costs.

P.C.G.

Before : S. S. Sodhi & N. K. Kapoor, JJ.

SHAHNAWAZ,—Petitioner.

versus

PANJAB UNIVERSITY, CHANDIGARH AND OTHERS,
—Respondents.

Civil Writ Petition No. 755 of 1990.

2nd April, 1991.

Constitution of India, 1950—Art. 226—Panjab University Calendar, Vol. II—Regulations 4.1, 4.2 & 4.3—Failure to fulfil minimum requirement of attendance of lectures—Shortage for any reason whatsoever cannot be condoned—Under Reg. 4.3, no relaxation can be granted—Student has no enforceable right of condonation of lecture shortage