

Before the Wakf Tribunal, Faridkot,
Presided over by Shri Rajiv Kalra (PB0098)
Additional District Judge, Faridkot



CS-7-2020
PBFD01-001365-2020
Date of Order: 05.01.2024
Pending for: 09.02.2024

Ravinder Singh Vs. Chief Executive Officer & others

Present: Shri K.S. Dhaliwal Advocate for plaintiffs.
Shri Ashu Mittal Advocate for defendant no.1.
Shri Vinod Maini Advocate for defendant no.2.
Shri V.K. Monga Advocate for defendant no.3.

ORDER

Arguments heard on the application moved under Order 6 Rule 17 read with Section 151 CPC by the plaintiffs for permission to amend the plaint to seek relief for restoration of possession of the suit property, mandatory injunction for setting aside/cancel the allotment/lease deed in favour of defendant no.3 and for declaration to the effect that allotment/lease deed in favour of defendant no.3 was nullity and to declare preferential rights of plaintiffs to seek actual possession of the suit property.

The plaintiffs have brought the present suit for permanent injunction while claiming possession over the suit property being lessee under defendants no.1 & 2 and to restrain the defendants from dispossessing them or to allot the suit property to any other person. The plaintiffs also sought mandatory injunction for directing the defendants to issue receipts of lease amount for the period 2014-15 to 2019-20. As per averments raised by the plaintiffs in the application, the defendants forcibly took possession of the suit property from them during pendency of the suit and it was allotted to defendant no.3. Thus, the necessity arose to move the application to seek amendment of the plaint.

Defendants no.1 & 3 have filed separate replies to the application and defendant no.2 adopted the reply of defendant no.1. The defendants resisted the claim of plaintiffs on the premise that the plaintiffs were not in possession of the suit property at the time of filing of suit and the proposed amendment will change the entire nature and otherwise the relief claimed is time barred. Hence, a prayer is made for dismissal of application.

After considering the rival submissions of both sides, it is apparent that the proposed amendment is sought on the premise of dispossession of the plaintiffs by the defendants after the filing of the suit. Although the defendants controverted such plea of the plaintiffs, but it is matter of fact that the onus will remain upon the plaintiffs to prove this aspect during hearing of the suit. In such circumstances, there is no legal impediment in permitting the amendment of the plaint. The proposed amendment will not adversely affect the interest of defendants and it will rather help the court to effectively adjudicate the matter.

With all just exceptions, the application is allowed without making any comment touching the merits of the case. The amended plaint, as appended with the application, is taken on record. Adjourned to 09.02.2024 for filing written statement to the amended plaint by the defendants.

Rajiv Kalra (PB0098)
Additional District Judge-cum-
Chairman Wakf Tribunal
Faridkot

Dated: 05.01.2024
Parul Kumar

Dr. Inam-Ur-Rehman
Member