

18.06.2019

Present: Mr. Bhupinder Gupta, Sr. Advocate with Ms. Poonam Gehlot, Advocate for the appellants.

Mr. P.S. Goverdhan, Advocate for the respondents.

Heard. Admit on the following substantial questions of law:-

1. When the predecessor in interest of plaintiffs-respondents lost right *qua* the lease hold rights over the suit premises on expiry of term of lease, have not both the Courts below acted in a highly erroneous, illegal and perverse manner in presuming the right in favour of the plaintiffs-respondents as lessees on the basis of inheritance of Shri Jagdish Prashad Aggarwal, the original lessee? Have not both the Courts below committed grave error of law and jurisdiction in unnecessarily relying upon Ext. P-1, Ext. P-3, Ext. P-6, Ext. P-7 and Ext. P-10 to Ext. P-15, which were mere paper entries and were obtained by plaintiffs-respondents by suppression of material facts amounting to committing fraud?
2. When the lessee namely Shri Jagdish Prashad Aggarwal, who lost his leasehold rights *qua* the suit property by virtue of sale made in the year 1995 during the currency of the lease period; was not it necessary for him to have got an appropriate Order issued by the competent authority after the sale was set aside by the Court? Have not both the Courts below acted in an illegal, erroneous and perverse manner in presuming the subsistence of the inferior right of lease in favour of Shri Jagdish Prashad

Aggarwal when he was not in possession of the suit premises nor the vendee ever came in possession thereof on account of the long possession of Shri Lok Nath predecessor-in-interest of defendants-appellants over the suit property by misreading and misunderstanding the true import of Ext. DW-4/A to Ext. DW-4/G.?

3. Whether the suit filed by plaintiffs-respondents for the relief claimed was hopelessly barred by limitation as accrual of cause of action was falsified from the material produced on record by the parties? Have not both the Courts below acted in illegal, erroneous and perverse manner in not recording proper findings on the issue of limitation by misreading pleadings, oral and documentary evidence?
4. When Shri Jagdish Prashad Aggarwal and Shri Lok Nath were proved to be partners of M/s Jagdish Prashad and Sons carrying business from the time of their predecessor, was not the story of licensee, invented by plaintiffs-respondents while filing the suit, apparently false and amounted not to approaching the Court with clean hands on account of suppression of true and material facts disentitling them to file the suit for recovery of possession and *mesne* profits especially when the true owner/ lessor was not arrayed as party to the suit and plaintiffs-respondents failed to prove any subsisting right, title and interest qua the suit premises?

At this stage, there is joint request made by learned Counsel for the parties that taking into consideration the nature of

dispute involved in this appeal, it will be in the interest of justice, in case the appeal is heard on some early date. Appeal is accordingly ordered to be listed for hearing on 16th September, 2019.

(Ajay Mohan Goel)
Judge

June 18, 2019
(narender)