

Smt.Manorma Sharma vs. Food Corporation of India & others

Civil Suit No.80 of 2010

12.05.2022

Present: Mr.Kapil Dev Sood & Ms.Sunita Sharma, Senior Advocates, alongwith M/s Het Ram Thakur and Devender Kumar, Advocates, vice Mr.Sanjeev Sood, Advocate, for the plaintiff.

Mr.Y.P. Sood, Advocate, for defendants No.1 and 2.

None for defendant No.3.

OMP Nos.642 of 2021 and 148 of 2022

These applications have been filed by the plaintiff.

2. OMP No.642 of 2021 has been filed for summoning of witnesses in rebuttal on behalf of the plaintiff and production of records. Whereas, OMP No.148 of 2022 has been filed for leading additional evidence in rebuttal and recalling the witnesses of the defendants.

3. In both applications, one and the same witnesses alongwith official records have been proposed to be summoned regarding rent assessment as per PWD Formula with reference to file No.PW-SD-1/CS-CA-RRC/98-77-7787, dated 10.09.2008 and office letter No.4(3)/2005-96 H.P. – 18068, dated 14.02.2008 from the offices of HP PWD as well as defendant-Food Corporation of India.

4. Plaintiff is claiming rent @ ₹22/- per sq.ft. with Carpet area of 5580 sq.ft. with further claim that defendant-Food Corporation of India has carried out renovation, addition and alteration and took additional area of 4225 sq.ft. Carpet area on market rent offered by the private parties. Issues in this regard have been framed. Onus whereof, is on the plaintiff. Whereas, defendants have claimed that plaintiff is entitled to rent @ 12.45 per sq.ft. for area of 3609.79 sq.ft only. Issues No.9 and 10 have

been framed in this regard. Onus whereof, is upon the defendants.

5. DW-1 has appeared as a witness and in order to substantiate claim of the defendants, has led evidence with claim that defendant-Food Corporation of India is entitled for rent of Carpet area of 3609.79 @ ₹12.45 per sq.ft.

6. Evidence of the plaintiff was closed on 26.05.2018 in affirmative. Thereafter, evidence of the defendants has been led. Now, plaintiff intends to rebut the evidence of the defendants.

7. Learned counsel for the defendants No.1 and 2 has opposed the prayer made in these applications, on the ground that communication dated 14.02.2008 is already on record as Ex.PW.1/J and communication dated 10.09.2008 is already on record as Ex.PW.1/E and Ex.PW.1/F and, therefore, there is no necessity to lead evidence in rebuttal or additional evidence.

8. Learned counsel for the plaintiff has submitted that though above referred documents are on record, but record with respect to assessment referred therein is not on record and further that though communication dated 10.09.2008 is on record as Ex.PW.1/E, but exhibition thereof has been objected on behalf of the defendants at the time of leading evidence in affirmative and, therefore, there is need to lead evidence in rebuttal.

9. Taking into consideration aforesaid facts and circumstances, I am of the considered opinion that so far as leading evidence in rebuttal is concerned, that may be permitted to the plaintiff, however, no case is made out for recalling defendants' witnesses for re-examination or re-cross-examination.

10. Accordingly, these applications are allowed to the extent that plaintiff is permitted to lead evidence in rebuttal, as prayed, by summoning two witnesses referred in these applications alongwith records mentioned therein.

11. Application stands disposed of.

Civil Suit No.80 of 2010

12. List for recording evidence of the plaintiff in rebuttal, as allowed hereinabove, in applications OMP Nos.642 of 2021 and 148 of 2022, on a date to be fixed by Additional Registrar (Judicial). Steps, complete in all respects, if not already taken, be taken within a week.

(Vivek Singh Thakur)
Judge

May 12, 2022
(Purohit)

