

Specific Relief Act, S. 55 - Licencee - Once a licensee always a licensee would apply to all kinds of licenses and that it cannot be said that the moment the licence is terminated, the licensee's possession becomes that of a trespasser .

Specific Relief Act, S. 6 - Where a suit is filed with promptitude against a licensee whose license is terminated, a Suit for mandatory injunction is maintainable - Suit for mandatory injunction - Suit for possession - Suit for ejection.

".....In Milka Singh v. Diana, AIR 1964 J&K 99, it has been observed that the principle that once a licensee always a licensee would apply to all kinds of licenses and that it cannot be said that the moment the licence is terminated, the licensee's possession becomes that of a trespasser. In that case, one of us (Murtaza Fazal Ali, J. as he then was) speaking for the Division Bench has observed:

"After the termination of the licence, the licensee is under a clear obligation to surrender his possession to the owner and if he fails to do so, we do not see any reason why the licensee cannot be compelled to discharge this obligation by way of a mandatory injunction under S. 55 of the Specific Relief Act. We might further mention that even under the English Law a suit for injunction to evict a licensee has always been held to be maintainable.

.....where a licensor approaches the court for an injunction within a reasonable time after the licence is terminated, he is entitled to an injunction. On the other hand, if the licensor causes huge delay, the court may refuse the discretion to grant an injunction on the ground that the licensor had not been diligent and in that case, the licensor will have to bring a suit for possession which will be governed by Section 7 (v) of the Court-Fees Act."

7. In the present case it has not been shown to us that the appellant had come to the Court with the suit for mandatory injunction after any considerable delay which will disentitle him to the discretionary relief. Even if there was some delay, we think that in a case of this kind attempt should be made to avoid multiplicity of suits and the licensor should not be driven to file another round of suit with all the attendant delay, trouble and expense. The suit is in effect one for possession though couched in the form of a suit for mandatory injunction as what would be given to the plaintiff in case he succeeds is possession of the property to which he may be found to be entitled. Therefore, we are of the opinion that the appellant should not be denied relief merely because he had couched the plaint in the form of a suit for mandatory injunction."

"16. The legal position that follows is that where a suit is filed with promptitude against a licensee whose license is terminated, a Suit for mandatory injunction is maintainable....."
Joseph Severance v. Benny Mathew, (2005) 7 SCC 667

Sant Lal Jain v. Avtar Singh, AIR 1985 SC 857 referring to a decision of the Jammu and Kashmir High Court Milka Singh v. Diana, AIR 1964 J&K 99.