

In the High Court of Punjab and Haryana at Chandigarh

CR No. 209 of 2014 (O&M)
Date of decision: 18.05.2015

Kamal Inder Singh through his General Power of Attorney
.....Petitioner

Versus

Kapoor Chand (Goyal)Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Gorkh Nath,Advocate
for the petitioner.

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SABINA, J

Petitioner had filed the suit for possession under Section 6 of the Specific Relief Act, 1963. Trial Court vide judgment/decreedated 21.8.2013 dismissed the suit filed by the petitioner. Hence, the present petition.

I have heard learned counsel for the petitioner and have gone through the record available on the file carefully.

The case of the petitioner, in brief, was that he was a tenant under the respondent. In ejectment petition filed by the respondent, petitioner was held to be in possession of the shop in question as a tenant. Petitioner had gone abroad in connection with his business and had left his employee to carry on the business in the shop in question. On 15.12.2009, respondent took forcible possession of the shop in question.

The case of the respondent, on the other hand, was that the petitioner had himself handed over the vacant possession of the premises in question to the respondent in November, 2008, whereas, the suit had been filed in May, 2010. It was further averred that the civil as well as criminal litigation was pending between the parties. Application moved by the petitioner was found to be false by the police officials.

Learned trial Court, while dismissing the suit filed by the petitioner, held that admittedly, petitioner was in possession of the shop in question as a tenant under the respondent. Admittedly, petitioner was a non-resident Indian. Petitioner has got citizenship of America about five years prior to the filing of the suit. During the cross-examination of the petitioner, it had transpired that the wall of the shop had fallen about 10/15 years ago. As per the cross-examination of PW3- Balbir Singh, Meter Reader, there was no meter reading qua the shop in question after October 2009 onwards. Respondent had produced on record orders passed by this Court wherein it was held that the petitioner had voluntarily handed over the possession of the shop in question to the respondent. Thus, the learned trial Court had rightly dismissed the suit of the petitioner. Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

May 18,2015
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