

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.4237 of 2001

Date of Decision: 30.09.2015

Smt.Pushpa Gupta

.....Petitioner

Vs.

Anju Joshi and Others

.....Respondents

RSA No.3240 of 2014

Yashpal Joshi

.....Appellant

Vs.

Pushpa Gupta and Anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE K.KANNAN

**Present:- Mr.K.B.Sidhu, Advocate for the petitioner
in CR No.4237 of 2001 and for the respondents
in RSA No.3240 of 2014.**

**Mr.Rakesh Nagpal, Advocate for the respondents
in CR No.4237 of 2001 and for the appellant in
RSA No.3240 of 2014.**

K.KANNAN, J.

In Civil Revision No.4237 of 2001, there has already been an order passed on 02.09.2015, delimiting the rights of the respondents to hold possession till May, 2016. The counsel appearing on behalf of respondents states that in the order passed, it has not taken note of Rs.40,000/- which was regarding construction expenses and that the defendants shall be permitted to adjust the claim against the future arrears of rent to be calculated at Rs.3,300/-. The counsel for the landlord, who is the petitioner, states that in the adjudication before the arbitrators it was decided that no amount was due to one to another and plaintiff has already given up Rs.60,000/-. The claim arises by fact that the defendant had not paid the whole of arrears of rent. I will not bring a fresh adjudication and take the order already passed on 02.09.2015 as

concluding the rights of parties and the respondents will continue to be liable for the amount of Rs.3,300/- every month in the manner undertaken by them through an affidavit.

In RSA No.3240 of 2014, the husband-Yaspal Joshi is the defendant and he has brought the appeal against the decree for injunction granted in favour of the landlord. In view of the order passed in civil revision allowing for the wife to continue upto May, 2016, the relief of injunction must be taken as not prohibiting the husband from using the property alongwith the wife in such capacity of tenant. There is also contention that the plaintiff has filed a suit with reference to 6 kanals and contention by the defendants is that he is in possession of the property beyond 6 kanals which actually belongs to him.

I will not enter into adjudication on a subject which is not subject matter of the suit. Land owner got an injunction only in respect of 6 kanals of land and as already explained the tenant-husband who is the appellant will abide by the directions for vacating the premises by May, 2016. There is nothing for consideration in second appeal and it is dismissed.

It is clarified that the reference to landlords-owners' right to ejectment must be taken as one available in execution proceedings in the Court of competent jurisdiction and would not require any independent petition before the rent controller.

30.09.2015
anil

(K.KANNAN)
JUDGE