

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4878 of 2015

Date of Decision.05.08.2015

Dharampal

.....Petitioner

Versus

Vodafone Essar Digilink Limited

.....Respondent

Present: Mr. Rajender Helwa, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The fanciful revision petition is filed by a defendant, who is aggrieved that the plaintiff shall not dismantle tele-communication tower from the property leased out by the defendant to the plaintiff. According to him, the plaintiff's removal will render the action infructuous and the plaintiff had committed breach of contract without paying the rent. According to him, Order 39 Rule 1 and 2 CPC does not allow for any such relief to be granted.

2. I do not think any intervention is worthwhile the effort, for, if the defendant's contention is that the plaintiff has committed the breach for not paying the rent which he is liable to pay upto 11.12.2015, the appropriate remedy will be to institute his own suit for damages and recover such a relief. It will be futile to prevent any action on the part of the plaintiff to remove himself from the place and there cannot be a fetter to a person to get away from the property if he chooses so to do.

There cannot be compulsion by a land owner that the tenant must continue to be in possession of the property. If he abandons the property the defendant will still have a right to recover what is appropriate and just.

3. The revision petition is dismissed but the defendant will have a liberty of independent action in the manner outlined above.

(K. KANNAN)
JUDGE

August 05, 2015
Pankaj*