

**119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.6231 of 2015 (O&M)

Date of Decision: September 21, 2015

Balwinder Singh

.... Petitioner

vs.

Tarsem Kaur and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Dr. Surya Parkash, Advocate for the petitioner.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the judgment and decree dated 21.07.2015 passed by learned Civil Judge (Jr. Divn.), Tohana, District Fatehabad, vide which the suit filed by the plaintiff-respondent No.1 for recovery of possession under Section 6 of the Specific Relief Act, was decreed.

A perusal of the judgment shows that the plaintiff-respondent No.1 had claimed that he is tenant in the disputed shop for the last 28 years @ ₹4,200/- per month as rent and an electricity meter was installed in another shop bearing No.324/1. The tenancy was admitted by proforma respondent-defendant No.2 bearing Civil Suit No.505 of 2005 in case titled as "Pushapa Devi vs Ram Dev Arya". The plaintiff claimed that he is running a shop under the name and style of Chottu Mottu Auto Garage along with Rajbir Mechanic.

Defendant No.2 sold the shop to defendant No.1 vide sale deed No.4835, dated 18.02.2013. Defendant No.1 after 28.04.2013, demolished the disputed shop and took forcible possession.

In the written statement, the sale by defendant No.1 is not denied. It was stated that the disputed shop was in depilated condition. Therefore, the same was sold and the possession was also handed over to defendant No.1.

Before the lower court, the plaintiff had failed to prove that the possession was handed over by the plaintiff to the original owner-defendant No.2.

The lower court has returned the findings that the plaintiff was in possession of the disputed shop and now the shop has been demolished.

Learned counsel for the petitioner has contended that Rajbir, mechanic was in possession of the shop and handed over the same to the original owner and thereafter the same was demolished. He has also referred to the police inquiry report.

However, it is proved that Tarsem Kumar was previously tenant in the disputed shop. There is nothing on file to show that Tarsem Kumar was ever evicted by the order of the Court or voluntarily surrendered the possession. According to him, he had given the shop to Rajbir, mechanic. That would mean that Rajbir mechanic was sub-tenant in the said shop and cannot deliver the possession of the same to the original owner.

Therefore, I do not find any illegality or infirmity in the impugned judgment and decree.

Accordingly, the present revision petition stands dismissed.

September 21, 2015
sarita

(KULDIP SINGH)
JUDGE