

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

RSA No.1532 of 2012(O&M)
DATE OF DECISION:10.02.2015

Tarun Kaushik

...Defendant/Appellant

Vs.

Krishna Bhalla

...Plaintiff/Respondent

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Arun Yadav, Advocate
for the appellant.

AMIT RAWAL, J.(ORAL)

This Regular Second Appeal at the instance of appellant-defendant is directed against the judgment and decree of the trial Court, whereby the suit for recovery amounting to Rs.58,161/- with interest at the rate of 6% per annum from the date of institution of the suit till the date of actual realization of the decretal amount has been passed in favour of the respondent-plaintiff. However, in appeal filed by the appellant-defendant, the lower appellate Court vide judgment and decree dated 19.01.2012, modified the decree of trial Court by holding that the respondent-plaintiff is entitled to recover of a sum of Rs.50,661/- along with interest at the rate of 6% per annum.

Mr. Arun Yadav, learned counsel appearing on behalf of appellant-defendant, in support of his grounds of appeal submits, that the both the Courts below have committed illegality and perversity in rendering

the finding, in as much as, there is apparent misappreciation of the law and misreading of the documentary evidence. He submits that agreement dated 01.10.2006 was a un-registered document. The lease deed was for 21 months and since it was not registered was inadmissible in evidence. He further submits that in December 2007, the appellant/plaintiff had vacated the premises in the presence of one Satish Kumar thus respondent-plaintiff is not liable to recover the arrears of rent w.e.f January 2008 to June 2008.

I have heard learned counsel for the appellant and am of the view that appeal is devoid of merit. The appellant-defendant in order to show that he vacated premises in the month of December 2007 was required to examine the aforementioned witness Satish, but the said witness has not been examined. Therefore, the plea of vacating the premises in the month of December 2007 has not been proved. The trial Court though held that the document Ex. C-1 was not admissible in evidence for want of registration but however, it formed opinion that it could be read for collateral purpose. The terms and conditions of the agreement indicate that whenever the lessee had to vacate the premises he was required to send a legal notice but however, in this case the appellant-defendant has failed to serve a legal notice. In the absence of any legal notice, the fact remains, that the appellant-defendant failed to prove the vacation of the premises in the month of December 2007. The appellant-plaintiff has failed to belie the claim of the respondent-plaintiff and rightly so the appellate Court held that the respondent-plaintiff is entitled for recovery of the amount of Rs.50,661/- along with at interest at the rate of 6% per annum.

The findings rendered by the Court below based on the

appreciation of the oral and documentary evidence, there is no illegality and perversity and there is no misappreciation of oral and documentary evidence.

No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

10.02.2015
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(AMIT RAWAL)
JUDGE