

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.2242 of 2013 (O&M)

Date of Decision: February 04, 2015

Kuldeep Sharma

...Appellant

Versus

Smt.Pushpa & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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?

Present: Mr.Aman Sharma, Advocate,
for the appellant.

Mr.Aayush Gupta, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

CM No.6110-C of 2013

Reply to the application seeking condonation of delay has not been filed.

For the reasons mentioned in the application, which is supported by an affidavit, delay of 108 days in filing the appeal is condoned.

CM stands disposed of.

RSA No.2242 of 2013

This is a Regular Second Appeal at the instance of the appellant-defendant against the judgment and decree of the trial Court, whereby the suit for possession of a shop measuring 8'x16' situated at

Bubka Road, Radaur has been decreed and the appellant-defendant has been directed to deliver the vacant possession of the shop to the respondent-plaintiffs. While directing the appellant-defendant to vacate the shop, he was also directed to pay interest @ 9% per annum on the mesne profits determined @ ₹400/- per month from the date of the filing of the suit till the vacant possession of the shop in dispute is delivered to the respondent-plaintiffs.

The appeal filed against the aforementioned judgment and decree dated 18.5.2012 of the trial Court was also dismissed by the Lower Appellate Court.

Learned counsel appearing on behalf of the appellant-defendant, in support of the grounds of appeal, submits that both the Courts below have committed an illegality and perversity in decreeing the suit and as well as dismissing the appeal. He has further argued that the notice dated 6.2.2010 was not proved and it was not in consonance with the provisions of Section 106 of the Transfer of Property Act. He further submits that the respondent-plaintiffs are also not entitled to the mesne profits as arrears of rent amounting to ₹1600/- had been paid.

I am afraid, the aforementioned argument is devoid of merit. The notice dated 6.2.2010 has been proved on record as Ex.P1, much less, the postal receipt and acknowledgment as Ex.P2 and Ex.P3. The appellant-defendant has received the notice but did not file any reply nor vacated the shop in dispute within the time prescribed in the notice.

The respondent-plaintiffs have terminated the tenancy by issuing the legal notice and the possession of the appellant-defendant after

the termination of the tenancy was nothing but as of a trespasser. Though the appellant-defendant denied the signature on the acknowledgment Ex.P3, but did not lead any evidence to the aforementioned contention/statement.

The trial Court, after examining the oral and documentary evidence decreed the suit and also awarded the mesne profits @ 400/- per month and found that the appellant-defendant is in arrears since May, 2012. He further ordered 9% interest on the aforementioned mesne profits.

Mr.Aman Sharma, learned counsel appearing for the appellant-defendant has informed the Court that during the pendency of the appeal, the respondent-plaintiffs have executed the judgment and decree of the trial Court and obtained the possession of the shop in question. Both the Courts below have rendered a finding of fact and law after appreciating the oral and documentary evidence. No substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

February 04, 2015
ramesh

(AMIT RAWAL)
JUDGE