

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

Regular Second Appeal No.205 of 2015 (O&M)

Date of decision: 23.3.2015

Pawan Singh

... Appellant

Versus

Bishan Dass

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms.Alka Sarin, Advocate,
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The only contentious issue raised in this appeal by Ms.Alka Sarin appearing for the defendant-appellant is the orders of the Courts *a quo* should not be construed as a definite opinion as to the status of the plaintiff as a tenant since the suit was only for permanent injunction seeking protection of possession against eviction without due process of law. No declaration was sought by the plaintiff in the suit with respect to his status as a tenant. The lower Appellate Court has protected the plaintiff with an order that he would not be dispossessed except in accordance with law which is a right available even to a trespasser in our law. The anxiety expressed by Ms.Alka Sarin can be assuaged by an appropriate direction that the issue of tenancy will be kept open for a decision, in case the

appellant brings the suit against the respondent exercising right to re-possess the land as owner of the suit corpus.

When this issue is kept open, no further question would arise in this appeal nor would the appellant be prejudiced if a decision on merits is not given in this case when the question of possession could not be hotly disputed in view of certain statements made by the father of the appellant before the Court in his evidence. No questions of law muchless substantial arise in this appeal for consideration of this Court. However, the contentious issue of tenancy is kept open as above.

Disposed of.

(RAJIV NARAIN RAINA)
JUDGE

March 23, 2015

Paritosh Kumar