

In the High Court of Punjab and Haryana at Chandigarh

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CM No.7415-C of 2015
and
R.S.A. No.3087 of 2015 (O&M)

.....

Date of decision:3.7.2015

Kishan Chand

.....Appellant

v.

Gram Panchayat of Village Hassanpur and another

.....Respondents

.....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Gorakh Nath, Advocate for the appellant.

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Inderjit Singh, J.

CM No.7415-C of 2015:

For the reasons mentioned in the civil miscellaneous application, the delay of 99 days in re-filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

R.S.A. No.3087 of 2015 (O&M):

This regular second appeal has been filed by Kishan Chand-appellant/plaintiff against Gram Panchayat of Village Hassanpur and Satish Kumar-respondents/defendants challenging the impugned judgment and decree dated 26.2.2013 passed by learned Additional Civil Judge (Senior Division), Hodal and against the impugned judgment and decree dated

11.11.2014 passed by learned District Judge, Palwal in the appeal, vide which the appeal filed by plaintiff Kishan Chand has been dismissed.

At the time of arguments, learned counsel for the appellant simply argued that the findings of the Courts below are incorrect and both these judgments are liable to be set aside. Nothing has been specifically argued which evidence has been misread by the Courts below and which findings are against the law or evidence.

I have heard learned counsel for the appellant and have gone through the record. From the record, I find that Kishan Chand filed suit against Gram Panchayat of Village Hassanpur and Satish Kumar for declaration declaring the plaintiff in actual physical lawful possession as allottee/tenant of and over the suit property and a decree for declaration declaring the entries and record in the name of defendant No.1 relating to suit property as illegal, null and void and liable to be cancelled etc.

I have heard learned counsel for the appellant and have gone through the record.

This is a regular second appeal. The findings of both the Courts below are concurrent. Nothing has been argued at the time of arguments as to what substantial question of law arises in this regular second appeal. The only argument that the findings given by the Courts below are incorrect and not as per law, is not enough to issue notice of motion in this appeal.

In the regular second appeal where the finding of fact has been given concurrently by the Courts below, the appellant has to show which

findings are incorrect and which findings are against the evidence or law or what substantial question of law arises in this regular second appeal. Nothing has been argued on these points. Therefore, this regular second appeal has no merit.

Otherwise also, the main case of the plaintiff is that the shop was allotted to him and it was in damaged condition and he approached the Gram Panchayat and after taking the consent of other members of Gram Panchayat rent was settled at ₹342/- per month and the possession has been taken by the defendants from him regarding which he had filed the complaints etc.

On the other hand, the case of the Gram Panchayat is that upto 26.10.2006 rent had been paid by Satish Kumar and that Raju Sarpanch had not given any right and that no resolution of Panchayat had been placed by the plaintiff to prove that the shop had been allotted to him. It is also the case of the Gram Panchayat that it is not bound by the private transaction of Raju Sarpanch. Respondent-defendant No.2 also contested this appeal.

As there is no document on record specially the resolution of the Gram Panchayat to show the allotment or giving of shop on rent to the plaintiff by the Gram Panchayat, therefore, the findings given by the Courts below are correct and as per law. Even PW-5 Ram Kumar Gupta stated that he had issued cheque No.469547 in the name of Raju Sarpanch Hassanur and admitted that name of Gram Panchayat had not been mentioned and that the cheque was issued in his individual capacity. Both the Courts below while correctly appreciating the evidence on record has reached to the

conclusion that the plaintiff is not entitled to any relief.

Therefore, from the above discussion, I find that the findings given by the Courts below are correct as per evidence and law and no substantial question of law arises in this regular second appeal.

Therefore, finding no merit in the appeal, the same is dismissed.

July 3, 2015.

(Inderjit Singh)
Judge

hsp