

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3344 of 2015 (O&M)
Date of Decision: July 23, 2015

Devinder Kumar

...Appellant

Versus

Bachittar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ranjit S. Dhiman, Advocate
 for the appellant.

INDERJIT SINGH, J.

Appellant-defendant Devinder Kumar has filed this regular second appeal against respondent-plaintiff Bachittar Singh, challenging the impugned judgment and decree dated 30.07.2014 passed by learned Civil Judge (Junior Division) Chandigarh, vide which the suit filed by the plaintiff-respondent for mandatory injunction was decreed and also the judgment and decree dated 13.04.2015 passed by learned Addl. District Judge, Chandigarh, vide which the appeal filed by the appellant-defendant was dismissed.

The brief facts of the case are that plaintiff-respondent Bachitar Singh filed a suit against appellant-defendant Devinder Kumar, for mandatory injunction directing the defendant to handover the possession of a room measuring 10'x12' of house No.31, village Daria, U.T. Chandigarh. It is stated in the plaint that defendant was

ex-tenant of the plaintiff in shop No.31/2, village Daria, U.T. Chandigarh, which he vacated on 30.04.2009 due to dilapidated condition of the shop. The defendant stopped paying the rent to the plaintiff since October, 2006, when the walls of the shop started developing cracks. It is further stated that plaintiff took pity and allowed the defendant to store his goods in room only for 10 days but the defendant has not vacated the room after expiry of 10 days and illegally using the same.

On the other hand, the case of the defendant is that he is tenant of demised premises in dispute and never vacated the same and he handed over the possession of the shop to the plaintiff for renovating the same and present room was handed over to defendant in lieu of the same for the period the plaintiff will take to renovate the shop. It is also the case of the defendant that he has paid rent upto May 2009.

After framing the issues and after giving opportunity to the parties to lead evidence, learned Civil Judge (Junior Division) Chandigarh, decreed the suit of the plaintiffs vide judgment and decree dated 30.07.2014. Aggrieved from the above-said judgment and decree, appellant-defendant filed appeal and learned Addl. District Judge, Chandigarh, dismissed the appeal vide judgment and decree dated 13.04.2015.

Aggrieved from the above-said judgments and decrees, present regular second appeal has been filed by the appellant-defendant.

At the time of arguments, learned counsel for the appellant argued that the findings given by the Courts below are not as per evidence and the judgments and decrees passed by the Courts below are liable to be set aside.

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

From the record, first of all, I find that findings of fact given by both the Courts below are concurrent. Nothing has been pointed out as to which evidence has been misread by the Courts below. Nothing has been shown to this Court as to how the judgments and decrees are perverse. At the time of arguments, learned counsel for the appellant admitted that the defendant is not paying any rent or any amount to the plaintiff since the taking over of the property in dispute. Learned Civil Judge, Chandigarh has discussed the evidence on record. No evidence has been produced by the defendant to show that he is tenant in the shop in question. Rather the admitted case of appellant is that the room in question was given to him for renovating the shop, in which he was tenant. There is no such writing on the record. And specially, if the room would have been given in lieu of that shop for doing business, then the defendant is supposed to pay the rent. But the defendant is saying that the room in question is only given for the period till the renovation of the tenanted premises without any rent etc., which also shows that the appellant-defendant is a licensee and findings of fact are given by the Courts below as per law. No cogent document has been placed on record to show that present

appellant-defendant is tenant in the demised premises or he was given the room in lieu of the tenanted premises.

In view of the above discussion, I find that the judgments and decrees passed by the Courts below are correct, as per law and do not require any interference from this Court and the same are upheld. No substantial question of law arises in this regular second appeal.

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

July 23, 2015
Vgulati

(INDERJIT SINGH)
JUDGE