

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

RSA No. 3800 of 2015 (O&M)

Date of decision: October 30, 2015

Sarabjit Kaur @ Amarjit Kaur

...Appellant

Versus

Gobinder Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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. Sarju Puri, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

1. The suit brought by the owner of the property in a rural area was on the basis that the defendant was the licensee, he having executed a licence deed in the year 2010. The defendant contended that he was not a licensee but a lessee and it was admitted even by the plaintiff's witnesses that he had been in possession even from the year 2008 i.e. even prior to the date when the alleged licence deed was created. The defence also was that the plaintiff himself was not examined and his power of attorney, who claim to be his son-in-law, admitted that the defendant was only paying rent of Rs. 700/- per month, which fortified the defendant's statement regarding the fact that he never executed a licence deed and the plaintiff had misutilised the signatures obtained on blank papers to create a document of licence.

2. Even if all the contentions taken by the defendant should be

taken as correct, if the suit is for recovery of possession couched in the form of mandatory injunction, the action will be indefensible unless the defendant has a legal right to continue in possession. Even as a lessee, if there is no statutory protection for a rural property other than the protection during the terms of lease then the defendant will only be bound to surrender the possession, even if there is a contention that he was a lessee was to be accepted. This has been the approach made by the courts below as well that it will be irrelevant to consider whether he is a licensee or lessee, if there is no particular statutory tenancy or protection that he could claim.

3. The decree granted by the courts below requires no intervention under the above circumstance and the second appeal is dismissed as it involve no substantial question of law for consideration.

October 30, 2015
prem

(K.KANNAN)
JUDGE