

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

**Regular Second Appeal No.129 of 2014 (O&M)
Date of decision: 02.07.2015**

Raj Kumar

.....Appellant

Versus

Raghvir Singh

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

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

Present: Mr. G.S. Bhandari, Advocate,
for the appellant.

Mr. Amrinder Singh, Advocate,
for Mr. Johnny Goyal, Advocate,
for the respondent.

Ritu Bahri, J.

Defendant-appellant has come up in regular second appeal against the judgment dated 28.10.2013 passed by the Additional District Judge, Bathinda, dismissing his appeal against the judgment and decree dated 07.10.2011 passed by the Additional Civil Judge (Senior Division), Phul, whereby suit filed by the plaintiff-respondent has been decreed.

Raghvir Singh-plaintiff filed a suit for possession of the shop in question, situated in the area of village Bhagta Bhaika, Tehsil Phul, District Bathinda along with recovery of arrears of rent from the defendant-appellant for use and occupation of the said shop. Earlier, the shop in question was owned by Gurdesb Kumar, Pal Kumar and Satpal sons of Sohan Lal. Later on, they sold the said shop to the plaintiff vide sale deed dated 24.12.2007

for a sum of Rs.1,06,500/-. The previous owners had rented out the shop to defendant-appellant at the rate of Rs.1300/- per month w.e.f. 01.07.2000. After 24.12.2007, there existed a relationship of landlord and tenant between the plaintiff and defendant. However, the defendant-appellant had failed to pay the rent to plaintiff-respondent, therefore, he (plaintiff) had terminated the lease qua the said shop and sought eviction of the defendant.

Upon notice, defendant-appellant filed written statement and controverted the allegations made by the plaintiff-respondent. It was submitted that he was tenant under Gurdesb Kumar and others for the last 25-30 years. In this regard, a rent note was duly executed. The plaintiff in connivance with Gurdesb Kumar etc. had prepared a false and frivolous sale deed in order to get the shop vacated.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiffs are entitled for the possession of the shop in dispute? OPP
2. Whether cause of action has accrued in favour of the plaintiff to file the present suit? OPP
3. Whether the present suit is not maintainable in the present form? OPD
4. Whether no legal notice was served on the defendant regarding the exchange of ownership of the shop in dispute? OPD
5. Relief.

Trial Court, after going through the evidence led by the parties, decreed the suit and directed the defendant to vacate the shop in question within two months. Lower appellate Court affirmed the findings returned by the trial Court and dismissed the appeal.

Appellant-defendant was a tenant in the shop in dispute. The said shop was purchased by Raghvir Singh-plaintiff (respondent herein). The plaintiff sought eviction of the defendant-appellant under the provisions of Transfer of Property Act. The main controversy in the suit was, “whether the provisions of Rent Act were applicable at the time of filing of the suit or not.” Vide notification (Ex.P7), village Bhagta Bhaika was declared as *Nagar Panchayat*. This notification was challenged before this Court by filing CWP No.6748 of 1998, wherein the operation of notification dated 06.04.1998 was stayed. The said writ petition was finally dismissed as withdrawn on 18.07.2012. After withdrawal of the writ petition, village Bhagta Bhai Ka was reconstituted as *Nagar Panchayat* w.e.f. 13.09.2012.

Perusal of letter dated 13.09.2012 (Annexure A-4) shows that after the writ petition i.e. CWP No.6748 of 1998 was withdrawn, SDM, Rampura Phul was appointed as Administrator of the Nagar Panchayat. Gurdeep Singh and Jaspal Singh, who were earlier appointed to look after the day to day work of the Nagar Panchayat, were reappointed. Vide order dated 07.09.2012 (Annexure A-3), SDM, Rampura Phul was appointed as Administrator of Bhagta Bhaika.

The argument raised by learned counsel for the appellant that after the withdrawal of the aforesaid writ petition and as per notification dated 06.04.1998, the Nagar Panchayat stood reconstituted on 06.04.1998, is liable to be rejected, as constitution of the Nagar Panchayat was completed after passing of the orders dated 07.09.2012 and 13.09.2012 (Annexure A-3 and A-4) when SDM, Rampura Phul was appointed as Administrator of Nagar Panchayat, Bhagta Bhaika. For all intents and purposes, the Nagar Panchayat stood constituted on 13.09.2012. As such, the provisions of Rent

plaintiff-respondent under the provisions of Transfer of Property Act had been rightly decreed by both the Courts below.

After going through the impugned judgments passed by the Courts below, no illegality, much less perversity, has been found therein warranting interference by this Court.

No substantial question of law arises for consideration.

Dismissed.

02.07.2015
ajp

(RITU BAHRI)
JUDGE