

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1410 of 2014(O&M)
Date of decision : September 8, 2015

BSNL and another

Versus
..... Appellants

Sukhwinder Kaur

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anil Rathee, , Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for the respondent.

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?

Amit Rawal, J (oral).

The challenge in the present appeal is to the impugned judgment and decree of the appellate court whereby the judgment and decree of the trial court has been modified, in part instead of holding that the respondent-plaintiff is entitled to arrears of rent w.e.f.23.8.2005 to 22.7.2008 along with interest @ of 12% per annum, changed the period from 10.10.2005 to 12.6.2008 without any modification qua interest part.

Mr. Anil Rathee, learned counsel appearing on

behalf of the appellants submits that the premises in dispute was taken by the appellant on rent for installation of mobile tower on 23.8.2005 but the tenancy was to commence w.e.f. 10.10.2005. However, the villagers of the local area had invoked the jurisdiction of the civil court under Section 9 CPC and obtained ex-parte stay with regard to the installation of mobile tower.

The ex-parte stay in the suit was challenged by way of filing an appeal No.44 dated 14.3.2011 and thereafter a notice dated 26.6.2006 for cancellation of the lease deed was served upon the landlord, therefore the appellant is not entitled to pay rent for the period he was not able to use the premises. Thus, the appellate court committed illegality and perversity, much less substantial question of law arise for adjudication before this Court.

Mr. Rajbir Singh, learned counsel appearing on behalf of the respondent submits that there is no illegality and perversity in the findings rendered by both the courts below, for, even the plaintiff has not assailed the finding of the lower appellate court whereby the period as well as interest on the arrears had been reduced.

He further submits that the respondent-plaintiff never received the alleged notice Ex.D-5 dated 26.6.2006 as it was inter se between the parties, therefore, even if lease deed has been cancelled, the possession of the appellant on the premises in dispute, as at the best they were tenants of holding over the property and for use and occupation of the same, they were required to pay

arrears of rent, which were rightly granted in the suit for rent. Thus, no substantial question of law arise, much less there is no illegality and perversity in the impugned order.

I have heard learned counsel for the parties and appraised the paper book.

Noticing the aforementioned facts and as well as rival contentions of the parties to the *lis*, the fact remains that the appellant had taken the premises on rent and the tenancy commenced w.e.f. 10.10.2005 i.e. 45 days from the date of tenancy i.e. 23.8.2005. Dehors of the fact that the villagers had obtained stay of the property in dispute, the tenant in my view, is liable to pay rent for the period they were in occupation, though the trial court had granted decree viz-a-viz arrears of rent w.e.f. 23.8.2005 till 22.7.2008 along with interest @ 12% per annum but the same has been modified and the period has been changed w.e.f. 10.10.2005 to 12.6.2008 without any modification qua interest part. Such modification, in my view, is not erroneous for the reasons aforementioned.

The status of the appellant as tenant would continue unless the premises is not vacated in accordance with law, the tenant is liable to pay arrears of rent, rightly so, the appellate court has decreed the suit allowing the arrears of rent w.e.f. the period aforementioned.

I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for

determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

September 8, 2015
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