

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 5537 of 2015 (O/M)
Date of decision : 16.10.2015

Mukesh

..... Appellant

Versus

Thula Jasram Brahmin Khonta Mandir Vikash Trust Samiti
..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashok Kaushik, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 1.10.2015, passed by the learned District Judge, Palwal, affirming the judgment and decree dated 31.3.2014, passed by the learned Civil Judge (Junior Division), Palwal, vide which the suit of the plaintiff was decreed with costs and decree for ejectment of the defendant from the demised property, details of which is mentioned in para 1 of the judgment of the lower Court, alongwith recovery of arrears amounting to Rs. 26,600/-, was passed in favour of the plaintiff.

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It comes out that the shop in question was re-constructed by plaintiff in January, 2007 and let out to the defendant and possession of the same was handed over to him on 1.6.2007 as tenant. The plaintiff earlier filed an eviction petition under the Haryana Urban Control of Rent and Eviction Act, 1973, before the Rent Controller, Palwal, titled as Thula Jasram Versus Mukesh Kumar, in which the Rent Controller, Palwal, vide judgment dated 7.4.2011, held that the shop was constructed in the year 2007, therefore, the provisions of Haryana Urban Control of Rent and Eviction Act, 1973 (in short 'the Act') do not apply to the shop in question as the shop is newly constructed building and the Rent Controller has no power to take cognizance of the newly constructed building till the expiry of ten years. Therefore, the said eviction petition was dismissed. Thereafter, the plaintiff sent a notice by registered post under Section 106 of T.P. Act, terminating the tenancy of the defendant and claiming the arrears of rent.

After going through the judgments of both the Courts below, I am of the view that the findings of facts have been recorded. In this case, the learned counsel for the appellant contends that the proper notice was not given. However, since the tenancy was on month to month basis, therefore, 15 days' notice was required to be given. Learned counsel further contends that in this case, only the Rent Controller is competent to decide the matter.

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Reliance has been placed upon the authorities of this Court in Rajender Bansal and others Versus Bhuru and another, 2014 (2) Law Herald 1538 and Dhir Global Industries Pvt. Ltd. Versus Gajraj Singh, 2014 (3) RCR (Civil) 351.

In the present case, the facts are different. Here, the Rent Controller was approached and he recorded the findings that he has no power to take cognizance for next 10 years under the Act regarding the demised shop, which is a newly constructed building. The said judgment having become final and is binding on both the parties.

In view of the matter, I do not find any illegality or infirmity in the judgments of both the Courts below. Therefore, no substantial question of law arises in the present appeal. Hence, the appeal is dismissed.

(KULDIP SINGH)
JUDGE

16.10.2015
sjks