

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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RSA No. 2942 of 2014

Date of decision :April 28, 2015

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Santokh Singh

.....Appellant

Versus

Manjeet Singh and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Bhupinder Kaur, Advocate for the appellant.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

C.M No. 6988-C of 2014

C.M is allowed. The applicant is allowed to make up the deficiency of the court fee.

RSA No. 2942 of 2014

Appellant has filed the present regular second appeal against the judgment dated 8.8.2012 passed by the Civil Judge (Junior Division) Ludhiana and the judgment dated 30.11.2013 passed by the Additional District Judge, Ludhiana, whereby an appeal against the judgment of the trial Court was dismissed. Vide the trial Court judgment, the suit of the plaintiffs-respondents (hereinafter referred to as 'the plaintiffs') has been decreed for relief

of possession of demised premises and for recovery of arrears of rent of Rs. 48,700/- along with entire arrears of rent and other charges. Defendant-appellant (hereinafter referred to as 'the defendant') was directed to vacate the demised shop and to deliver its actual physical vacant possession to the plaintiffs. A further direction has been given to the defendant to pay the admitted rent i.e Rs. 1000/- per month to the plaintiff till the delivery of its actual physical vacant possession.

The defendant was a tenant in one shop situated in Janta Colony Opp. Jasdev Nagar, Ludhiana bearing shop no. 12 situated on Ludhiana-Malerkotla road which was taken by the defendant on a monthly rent of Rs. 1000/- from Nazar Singh, previous owner. Nazar Singh son of Gurdev Singh sold the suit property to Smt. Surinder Kaur plaintiff no.2 vide sale deed dated 11.6.2004 bearing registration no. 6385 registered in the office of Sub Registrar, Ludhiana West. Nazar Singh had also given the right to collect the due rent from the defendant vide affidavit dated 11.6.2004. At that time, the defendant Santokh Singh was in arrears of rent from June 2004. The plaintiffs demanded the rent from the defendant from June 2004 onwards. The defendant issued cheque no. 070826 dated 1.6.2005 amounting Rs. 10,000/- drawn on Bank of India, Model Town Branch Ludhiana in favour of plaintiff no.1. On presentation, the cheque was dishonoured vide memo dated 4.8.2005 with the remarks account closed. Despite a legal notice served through his counsel Sh. K.C Sharma, the defendant failed to

make the payment of the rent. In this regard a complaint was made which was pending. The defendant closed the shop after April 2005 and refused to make the payment of rent. The plaintiffs were claiming the rent amounting to Rs. 48,700/- till October 2007. A notice was served by the plaintiffs under Section 106 of the Transfer of Property Act to vacate the premises.

The defendant appeared and filed his written statement and denied any relationship between the plaintiffs and defendant as a tenant. There was a litigation between the defendant and the previous owner which was decided in Civil Suit no. 310 of 22.2.1995/RBT No. 110 of 5.4.1997 decided on 1.2.1999 titled as "Santokh Singh vs. Pritam Singh" by the Court of Sh. Harjit Singh, the then Cviil Judge (Jr. Div) Ludhiana. Rate of rent of the shop in dispute is Rs. 550/- per month as was settled with the previous owner as per the compromise as well as in the judgment and decree stated above.

Both the Courts decreed the suit of the plaintiff on the following grounds:

- (i) As per the sale deed Ex. P-4, plaintiffs had purchased the shop from Nazar Singh which was duly registered as per Ex. P-5. The defendant who was in arrears of rent from June 2004 continued to be tenant in the shop and thereafter made a payment of Rs. 10,000 towards arrears of rent by way of a cheque which on presentation was dishonoured and a complaint is pending with regard to

dishonouring of the cheque. Vide notice Ex.P-7 which was duly received by the defendant vide Ex.P-8 and UPC Ex. P-9 and the return envelope as Ex.P-10, the plaintiffs gave 15 days time to the defendant to vacate the shop and thereafter the suit was filed. Hence the suit was maintainable for possession of the shop by evicting the defendant as per provisions of Section 106 of the Transfer of Property Act, 1882

(ii) The plaintiff no.2 as per the sale deed Ex. P-4 was the owner of the shop and the defendant was a tenant of the previous owner. The previous owner Nazar Singh had given a right to the plaintiffs to collect the rent vide his affidavit dated 11.6.2004. The defendant admitted the cheque amounting to Rs.10,000/- in favour of the plaintiffs and also accepted the rate of rent was Rs. 1,000/- per month. Hence he accepted the status of the tenant and his tenancy was duly terminated by serving a notice under Section 107 of the Transfer of Property Act

(iii) Since the shop in question was situated in the rural area provisions of East Punjab Urban Rent Restriction Act would not be applicable and hence the plaintiff could get the vacant possession after serving a notice under Section 106 of the Transfer of Properties Act, 1882.

On all the above grounds, the suit of the plaintiff has been rightly decreed for an amount of Rs.48,700/- and a further direction to vacate and give the possession of the shop to the plaintiff.

The judgments of both the Courts does not require interference as no substantial question of law is involved in the present case. In view of all that has been discussed above, present regular second appeal is dismissed.

April 28, 2015
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(**RITU BAHRI**)
JUDGE