

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

RSA No. 4641 of 2015 (O&M)

Date of decision: August 14, 2015

Ishra Rani

...Appellant

Versus

State of Punjab and others

...Respondents

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: None for the appellant.

K. KANNAN, J. (Oral)

CM No. 10803 C of 2014

For the reasons stated in the application, delay in re-filing the appeal is condoned.

Main case

1. There is no representation for the appellant. I notice from the case record that the appeal has been filed on 18.3.2014 and brought for hearing on 8.12.2014. The learned counsel for the appellant had circulated a written adjournment slip and hence the case adjourned for 7.4.2015. Today there is no representation for the appellant. The second appeal is invariably admitted only on substantial questions of law as mandated to be framed by the Code of Civil Procedure and it shall be duty of the Court to see whether there exists any substantial question of law. Since the appellant is not present, I have examined the record to appraise if there exists any substantial question for consideration.

2. The appellant is the plaintiff and the suit was to declare the order passed by the Sub Divisional Magistrate on 30.7.1996 as invalid and inoperative. An eviction order had been passed under the Public Premises Act by the Collector on 30.7.1996 and the plaintiff herself challenged the same by means of a writ petition in CWP No. 11485 of 2004. The writ petition had been dismissed, but the suit was filed on a plea that the dismissal of a writ petition cannot operate to extinguish the plaintiff's right in the property. The suit itself was not maintainable, for, there was an order of eviction passed and the remedies lie only in challenging the correctness of the order in the higher forums provided under the Public Premises Act itself and if that order has become final, civil court had no jurisdiction to interfere and grant any relief. In this case there is additional reason that the plaintiff's own efforts to challenge the order came to nought when her writ petition was dismissed by this court. A fresh suit was clearly barred, as the courts below have already considered.

3. The appeal is meritless and it is dismissed as it involves no substantial questions of law.

August 14, 2015
prem

(K.KANNAN)
JUDGE