

**C.M. NO.12836 C OF 2014 &
R.S.A. NO.5435 OF 2014**

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

DATE OF DECISION: OCTOBER 05, 2015

Joginder

.....Appellant

VERSUS

Pawan Kumar and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. Rakesh Gupta, Advocate,
for the appellant.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgement and decree dated 29.01.2011 passed by the Additional Civil Judge (Senior Division), Kaithal, vide which suit for ejectment and recovery of ₹14,500/- as mesne profits stands decreed, against which the appeal preferred by the appellant-defendant dismissed by the Additional District Judge, Kaithal, on 12.05.2014.

It is the contention of counsel for the appellant that the courts below have wrongly recorded the findings that the property in question is situated beyond the municipal area of the town of Pundri. He contends that ample evidence was led by the appellant-defendant, which would indicate that the shop was in the revenue estate of Village Fatehpur and, therefore, it

was within the municipal limit of Pundri. His further contention is that notice for eviction to vacate the premises has not been duly served upon the appellant-defendant and, thus, the judgements and decree passed by the courts below cannot sustain and deserve to be set-aside.

These contentions, as raised by counsel for the appellant, cannot be accepted in the light of detailed findings recorded by the courts below on due appreciation of the evidence. Notice under Section 106 of the Transfer of Property Act, 1882, has been duly served upon all the legal heirs of the tenant. Further on the basis of the revenue record, it has been established that the property in question is not situated within the municipal area of Municipal Council, Pundri and, therefore, the Haryana Urban (Control of Rent and Eviction) Act, 1973 is not applicable and, thus, the suit for eviction was maintainable.

Both the Courts below have returned concurrent findings after properly appreciating the evidence and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

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In view of the dismissal of main appeal, the application for stay also stands dismissed.

**October 05, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**