

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: April 01, 2016

1. Civil Revision No.2598 of 2015 (O&M)

Mandir Maharaj Jagan Nath Puri, Ladwa

...Petitioner

Versus

Man Singh & others

...Respondents

2. Civil Revision No.2599 of 2015 (O&M)

Mandir Maharaj Jagan Nath Puri, Ladwa

...Petitioner

Versus

Sardha Ram

...Respondent

3. Civil Revision No.2600 of 2015 (O&M)

Mandir Maharaj Jagan Nath Puri, Ladwa

...Petitioner

Versus

Sheo Ram

...Respondent

4. Civil Revision No.2601 of 2015 (O&M)

Gaur Sabha Kurukshetra

...Petitioner

Versus

Man Singh & others

...Respondents

5. Civil Revision No.2602 of 2015 (O&M)

Shivala Jamana Dass, Ladwa

...Petitioner

Versus

Sardha Ram

...Respondent

6. Civil Revision No.2199 of 2015 (O&M)

Shivala Jamana Dass Ladwa

...Petitioner

Versus

Man Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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: Mr.Tarun Dhingra, Advocate,
for the petitioners in all the cases.

Mr.Kamaljeet Singh Sidhu, Advocate,
for the respondents in CR No.2600 of 2015.

AMIT RAWAL, J. (Oral)

By this order, I intend to dispose of six revision petitions bearing Nos.2598 to 2602 and 2199 of 2015 as the common questions of facts and law are involved in all these revision petitions. The facts are being taken from Civil Revision No.2598 of 2015.

The petitioner-plaintiff is aggrieved of the order dated 28.1.2015, whereby the judgment and decree of the trial Court has been set aside and the matter has been remitted back to the trial Court to decide the matter afresh and further order for return of the plaint to the petitioner by exercising the powers under Order 7 Rule 10 CPC, in essence the claim qua arrears, use and occupation charges has been declined on the ground that the Civil Court does not have the jurisdiction.

Mr.Tarun Dhingra, learned counsel appearing on behalf of the petitioners in all the revision petitions submits that the judgment rendered by this Court in **Anguri Devi Versus Jasmer Singh, 2006(4) R.C.R. (Civil) 707** has distinguished the judgments rendered by the Division Bench in **Pritam Singh Versus Mehal Singh, 1986 RRR 574 P&H and Sarwan**

Singh Versus Ajmer Singh, 1993(1) RRR 35, wherein, after interpreting the ratio decidendi, it has been held that the Civil Court would have jurisdiction. He further submits that vide order dated 30.11.1990 passed by the revenue Court, ejectment of the respondents was ordered, which, vide judgment dated 14.3.2014 passed in SLP No.12370 of 2013, had attained finality upto the Hon'ble Supreme Court and, therefore, the relationship of landlord and tenant ceased to exist on 30.10.1990. The landlord is entitled to recover the rent/mesne profits, use and occupation charges. When the tenancy was terminated, their status is of trespasser as relationship of landlord and tenant had ceased to exist, therefore, there could not be any defence in the written statement and, thus, the suit to claim use and occupation charges before the Civil Court under Section 9 of the Civil Procedure Code would be maintainable and, thus, urges this Court for setting-aside of the impugned order.

Mr.K.S.Sidhu, learned counsel appearing on behalf of the respondents in Civil Revision No.2600 of 2015 submits that the ratio decidendi culled out in **Anguri Devi's case (supra)**, is not applicable as it has taken into consideration the provisions of Section 77 of the Punjab Tenancy Act as applicable to Himachal Pradesh, whereas the provisions of Punjab Tenancy Act as applicable to the Punjab are totally different. The view expressed by the Division Bench in **Pritam Singh and Sarwan Singh's cases (supra)**, is squarely applicable to the case, particularly when the ejectment was sought through the assistance of the revenue Court. The suit for recovery of use and occupation or mesne profits would not lie. He further submits that the matter is also subjudice in this Court and there is a status-quo order and the remedy, if any, is to seek the execution of the

ejectment order. The status of the tenant would continue to remain as per Section 116 of the Transfer of Property Act, in essence, they would be tenant holding over.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the opinion expressed by the Lower Appellate Court holding that as per the provisions of sub-section (5) of Section 4 of the Punjab Tenancy Act, 1887, a person, who is defined as a landlord as per sub-section (6) of Section 4, is entitled to seek ejectment of a person, who is actually a tenant and, therefore, for determination of claim of arrears, use and occupation charges, the revenue Court and not the Civil Court would be competent to deal with such matters. The aforementioned provisions have been interpreted by the Division Bench of this Court in **Pritam Singh and Sarwan Singh's case (supra)**. The ratio decidendi culled out in **Anguri Devi's case (supra)**, holding that the aforementioned two judgments of this Court have not taken into consideration the judgment rendered by the Hon'ble Supreme Court in **Raja Durga Singh of Solon Vs. Tholu, 1962 P.L.R. 837**, in my view, on going through the contents of the same, is not applicable, for, the judgment has been rendered by taking into consideration the provisions of Punjab Tenancy Act as applicable to the Himachal Pradesh.

Keeping in view the aforementioned facts and circumstances of the case, the impugned order is accordingly upheld. The revision petitions stand dismissed.

Since the Lower Appellate Court has already directed the defendants to appear before the trial Court for ordering of the return of the plaint, but owing to the injunction order, there is no date. Accordingly, the

parties, through their counsel, are directed to appear before the trial Court
on 2.5.2016.

April 01, 2016
ramesh

(AMIT RAWAL)
JUDGE