

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

Civil Revision No.8607 of 2015 (O&M)

Date of Decision: September 24th, 2016

Lakhmi Chand

...Petitioner

Versus

Smt.Rajrani & another

...Respondents

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

Present: Mr.Rajender Chhokar, Advocate,
for the petitioner.

Mr.Lakshay Bajaj, Advocate for
Mr.Harkesh Manuja, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

Civil Misc.No.18305-CII of 2016

Prayer in the application is for staying the proceedings before
the trial Court.

Instead of hearing arguments on the stay application, with the
concurrence of the learned counsel for the parties, main revision petition is
taken up for final hearing today.

Civil Revision No.8607 of 2015

Petitioner-plaintiff is aggrieved of the impugned order,
whereby the application filed under Order 7 Rule 11 CPC for rejection of
the counter claim of the defendant for want of court fees, has been
dismissed.

Mr.Rajender Chhoker, learned counsel for the petitioner
submits that the question of licence has already been decided in Civil Suit

No.120 of 2012 titled as “Lakhmi Chand Versus Smt.Rajrani & others”, decided on 15.1.2013. The counter claim has been very cleverly drafted, in which possession has been sought from the plaintiff as there was no licence, therefore, the court fees is required to be paid.

Per contra, Mr.Lakshay Bajaj, Advocate for Mr.Harkesh Manuja, Advocate, for the respondents submits that the suit for mandatory injunction seeking possession from the licensee is maintainable as per Section 39 of the Specific Relief Act.

I have heard the learned counsel for the parties and appraised the paper book.

It is too premature at this stage to ponder upon whether counter claim is in the garb of mandatory injunction for seeking possession. The status of the petitioner of a licensee or not, is a mixed question of law, which shall be decided at the final stage and not at this stage. The counter claimant can be called upon to pay the court fees.

I do not intend to differ with the findings rendered by the trial Court. No case for interference is made out.

Revision petition stands dismissed.

September 24th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No