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

Date of decision : 11.01.2016

1.

RSA-415-2007 (O&M)

Joginder Singh

...Appellant

Versus

Munish Kumar and others

...Respondents

2.

RSA-412-2007 (O&M)

Joginder Singh

...Appellant

Versus

Bhagwan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pritam Saini, Advocate
for the appellant (in both the appeals.).

Mr. Jagdish Manchanda, Advocate
for the respondents (in both the appeals.).

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?

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two regular second appeals bearing Nos.RSA-415-2007 and RSA-412-2007 at the instance of the appellant-plaintiff-landlord for ejectment of defendants from the shop described herein as South; Main Bazar,

East-Property of owners, West, Property of owners, North Property of owners, situated in Main Bazar, Sadhaura, Tehsil Jagadhri, District Yamuna Nagar. The trial Court decreed the suit vide judgment and decree dated 30.11.2004. During the pendency of the appeal, Village Sadhaura, vide notification dated 28.03.2006 was notified as Municipal Committee. The lower Appellate Court vide judgement and decree dated 12.09.2006, allowed the appeal and dismissed the suit by relying upon the judgment of Hon'ble Supreme Court and this Court.

Mr. Pritam Saini, learned counsel appearing on behalf of the appellant submits that during the pendency of the appeal in this Court, vide notification dated 28.03.2006, Village Sadhaura was notified as Municipal Committee and thus, dismissal of the suit by the Lower Appellate Court pales into insignificance. In support of this contentions, he has relied upon the judgment of this Court rendered in **"Sat Pal Vs Joginder Singh" 2012 (1) HLR, page 622** and thus, following substantial questions of law arises for consideration of this Court:

1. Whether the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973, (hereinafter called 'the Act'), will be applicable or not?
2. Whether the suit for possession by way of the ejectment filed in the year 2004, the Village Sadhaura, was not notified as Municipal Committee.

Mr. Jagdish Manchanda, learned counsel appearing on

behalf of the respondents submits that there is no illegality and perversity in the judgment and decree passed by the lower Appellate Court as the same was passed in consonance with the law and the judgment of Hon'ble Supreme Court, accordingly, the suit was rightly dismissed. Subsequent notification is meaningless and thus, no substantial questions of law arises for determination.

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

I am in agreement with the ratio decidendi culled out in the judgment of this Court and the various judgments rendered by Hon'ble Supreme Court to say that the date when the suit was filed or as on today, the appeal is decided, Village Sadhaura continued to be Gram Panchayat. Hence the provisions of the Rent Act are not applicable. The appeal is in continuation of the suit and therefore, in view of the subsequent events i.e. re-notification of Village Sadhaura ousted from the purview of the Municipal Committee, is restored back to the status of the area of Gram Panchayat and thus, suit for possession by way of ejectment of the defendants from the shops/disputed property in concern was maintainable.

At this stage, Mr. Jagdish Manchanda, Advocate from instructions from his client submits that his client would vacate the premises in case, reasonable period is granted.

The substantial questions of law noticed above, in view of the ratio decidendi culled out by the judgment of Hon'ble Supreme Court are answered in favour of the appellant-plaintiff. However,

nine months' time is granted to the defendants to vacate the premises in dispute provided that they continue to make the payment of rent and also clear the arrears of the rent, if any, within a period of one month and shall continue to deposit the future rent by 10th of every month against the valid receipt or in the bank account of the appellant-plaintiff. In case, the aforementioned directions are not complied with, the appellant-plaintiff shall be entitled to seek the possession of the property in accordance with law.

In view of above observations, the both the appeals are allowed and the judgment and decree of the lower Appellate Court are set aside.

11.01.2016
yogesh

**(AMIT RAWAL)
JUDGE**