

211

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

**RSA-1648-2012 (O&M)
Date of decision : 05.12.2016**

Krishan Lal (deceased through LRs)

... Appellant(s)

Versus

M/s Ram Sarup Babu Ram and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.R. Gupta, Advocate
for the appellant(s).

Mr. Varun Issar, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The appellant(s)-plaintiff(s) being the successors-in-interest of the plaintiff-Krishan Lal, are aggrieved of the concurrent findings of fact and law, whereby the suit seeking recovery of ₹ 14 Lacs towards damages/compensation for physical harassment, mental torture, agony, loss in business etc., against the defendants for being dragged into the Civil Court on perpetual filing of the litigation seeking eviction with respect to the shop, has been dismissed by both the Courts below.

Mr. B.R. Gupta, learned counsel appearing on behalf of the appellant(s)-plaintiff(s) submits that both the Courts below have committed illegality and perversity in dismissing the suit as umpteen number of documentary evidence have been placed on record to establish the possession i.e. Ex.P1 to Ex.P8. The first litigation was started in the year

1976 and last litigation in 1997. The last case was decided in the year 2008. All the litigations went against the respondent(s). Even the matter reached upto this Court also. It is, in this background of the matter, the suit was filed, but the Courts below have erroneously not granted any compensation on account of the loss of business, damages etc., thus, the judgments and decrees under challenge are liable to be set aside on this ground alone.

Mr. Varun Issar, learned counsel appearing on behalf of the respondent(s)-defendant(s) submits that during the period of litigation aforementioned, except the judgment and decree of the Court below, no independent, direct and cogent evidence with regard to the loss of business has been led and rightly so, the Courts below have not granted the relief, thus, urges this Court for affirming the findings under challenge as there is no gross illegality and perversity.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. B.R. Gupta, for, in such type of cases, the plaintiff(s) has to discharge the onus to establish the loss of business and litigation expenses. No party can be prevented from initiating the machinery i.e. process of law available and having failed to succeed, would not rise a cause of action for mental torture and agony. No other evidence except the judgment and decree of the Courts below have been produced on record which is not a sufficient requirement of law. In my view, the plaintiff(s) has miserably failed to discharge the onus and rightly so, the Courts below declined the relief.

For the foregoing reasons, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below as the

same are based upon correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration.

The second appeal is dismissed.

05.12.2016

Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned

Yes/ No

✓

Whether Reportable

Yes/ No