

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

**RSA No. 1897 of 2013
Date of decision: 27.02.2016**

Prem Singh

...Appellant(s)

Versus

Surinder Kumar

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sarju Puri, Advocate,
for the appellant(s).

JITENDRA CHAUHAN, J.

This regular second appeal has been filed by the defendant against the judgment and decree dated 30.08.2012 passed by the learned Additional District Judge, SBS Nagar vide which the appeal filed by the defendant was dismissed and the judgment and decree dated 16.11.2011 passed by Additional Civil Judge, Senior Division, SBS Nagar was upheld.

In brief, the plaintiff Surinder Kumar, filed suit for possession by way of ejectment and recovery of Rs. 13,000/- as arrears of rent. It was pleaded by the plaintiff that he was owner in possession of the shop in question. The defendant was inducted as tenant on a monthly rent of Rs. 1,000/- about six years ago. The

defendant defaulted in paying the rent, consequently, the tenancy was terminated and a notice under Section 106 of Transfer of Property Act was served upon the defendant on 27.03.2006, thereby asking him to vacate the shop in question. The defendant failed to vacate the shop, hence the suit.

On notice, the defendant appeared and contested the suit of the plaintiff. The plea taken by the defendant was that shop in question was taken on rent from the father of the plaintiff and he had been paying the rent to him regularly. Darshan Singh, the father of the plaintiff, refused to receive rent from the defendant. The rate of rent was 250 per month. The shop was rented out without any stipulation regarding time. The factum of notice was denied.

The learned trial Court under issues No. 1 held that the plaintiff was the owner of the shop in dispute. On issuance of legal notice Ex. P3, the tenancy stood terminated. Under issue No. 2, the plaintiff was not held entitled to claim any amount as the rent for the months in question had already been paid. In view of the findings of issue No. 1, the suit of the plaintiff was decreed partly and he was held entitled to the possession of shop in question.

Feeling dissatisfied, the defendant filed first appeal before the Additional District Judge. The Additional District Judge dismissed the appeal by holding that the plaintiff was the owner of

the shop in question and the sale deed Ex. P6 to P8 were proved on the file by the plaintiff by examining PW2 Nachhattar Kaur, his attorney and she also proved the power of attorney Ex. P2 executed by plaintiff Surinder Kumar in her favour. PW3 Jagiri Lal Lamberdar stated that the sale deeds which were executed by Prito, wife of Bikkar Singh in favour of plaintiff Surinder Kumar were attested by him. Ex P3, Legal notice and Ex P4, postal receipt were also proved on record by Sri Gurdev Ram, Clerk of Sri H.L. Suman, Advocate who appeared as PW5.

Both the courts below have returned concurrent findings that the plaintiff is the owner of the shop in question. The defendant defaulted in making payment. He was served with notice under Section 106 of Transfer of Property Act thereby terminating the tenancy. The factum of legal notice having been served upon the defendant is proved on the record. This Court does not find any reason to interfere in the concurrent findings recorded by both the Courts below. There is no question of law much less substantial question of law involved in the present appeal.

Dismissed in limine.

27.02.2016
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(JITENDRA CHAUHAN)
JUDGE