

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

R.S.A. No.4156 of 2015 (O&M)

Date of decision: 30.03.2016

Ram Milan

..Appellant

Versus

Ajay Jain

..Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. O. P. Sharma, Advocate
for the appellant.

Mr. N. D. Achint, Advocate
for the respondent.

Jitendra Chauhan, J.

This regular second appeal is directed against the judgment and decree dated 27.03.2015, passed by the learned Additional District Judge, Gurgaon, (for short, the 'first Appellate Court') whereby, the appeal filed by the appellant, against the judgment and decree dated 31.05.2014, passed by the learned Civil Judge, Jr. Divn., Gurgaon, (for short, the 'trial Court'), has been dismissed.

Brief facts of the case are that the plaintiff/respondent along with his brother was co-owner in possession of a commercial

building bearing No.157-161, situated in Sadar Bazar, Gurgaon. The building being in a dilapidated condition a big portion of the building collapsed on 16.09.2009. It was alleged that taking advantage of the same, the defendant/appellant, who had put up his business on the footpath adjoining the aforesaid building, tried to encroach upon the building and threatened to raise constructions over the same. Hence, a suit for permanent injunction restraining the defendant/appellant from interfering in the peaceful possession of the plaintiff/respondent was filed.

It is contended that the respondent have forcibly dispossessed the appellant from the shop with the help of goons. The learned Courts below have erroneously held that the appellant was in possession of some land in front of the building of the respondent on Tehbazari from the M.C. Gurgaon, whereas, the appellant had led sufficient evidence to prove that he was a tenant in one of the shops in the disputed building.

The learned counsel for the respondent states that the respondent along with his brother is co-owner in possession of commercial building bearing No.157-161 situated in Sadar Bazar, Gurgaon. He further contends that the appellant wanted to encroach upon the property of the respondent. The appellant could not prove his tenancy in respect to the building in question and therefore, the

suit of the respondent was rightly decreed.

I have heard the learned counsel for the parties and carefully perused the entire record.

From the perusal of the record, it reveals that the learned Courts below have passed the impugned judgments and decrees on the failure of the appellant to prove his tenancy over the suit property. However, there is no dispute with regard to the ownership of the respondent. In his cross-examination, the appellant himself has admitted that he has no proof regarding his tenancy. Therefore, the learned Courts below have rightly passed the impugned judgments and decrees.

On consideration, this Court finds that the contentions raised by the learned counsel for the appellant only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. These are pure findings of fact. No question of law much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

30.03.2016

ashok

(JITENDRA CHAUHAN)
JUDGE