

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

RSA-5341-2015(O&M)
Date of decision : 09.05.2016

Amandeep Kaur

... Appellant

Versus

Tarsem Lal Handa (now deceased) through his legal representatives

... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Malkeet Singh, Advocate
for the appellant.

JITENDRA CHAUHAN, J.(ORAL)

The suit for possession and recovery of ₹9000/- filed by the respondent/plaintiff (for short 'the respondent') was partly decreed by the trial Court, vide judgment and decree dated 29.10.2013 to the effect that the respondent is entitled to possession of the shop in question and relief for recovery of ₹9000/- as arrears of rent for use and occupation was declined. The defendant-appellant was granted three months' time to hand over the vacant possession of the shop in question to the original plaintiff/ Tarsem Lal (since deceased and now represented through LRs).

2. Aggrieved against the judgment and decree of trial Court for decreeing the suit for possession, the appellant/defendant No.2 filed an

appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 15.05.2015.

3. The 1st Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the oral as well as documentary evidence on record, hence, the instant appeal at the behest of the appellant.

4. The brief facts of the case are that defendant No.1 Harbhajan Singh took the shop on rent for 11 months @ ₹250/- per month and in this regard a rent deed dated 03.12.2002 was executed and defendant No.1 agreed the terms and conditions as mentioned in the said rent deed and it was also stipulated in the said rent deed that defendant No.1 will vacate the shop in dispute at the pleasure of the respondent. It is also submitted that now the original plaintiff does not want to keep defendant No.1 as his tenant and wanted to eject him from the shop in dispute by getting the possession of the same as defendant No.1 is a chronic defaulter in paying the rent and has not paid the rent since February, 2004 and as such, rent of ₹9000/- is due against defendant No.1 and the original plaintiff requires the shop in dispute for his personal necessity. It was further submitted that defendant No.1 has sublet a part of the shop in dispute to his daughter/ appellant without the consent of the respondent, which is against the terms and conditions of the rent deed and defendant No.1 has also changed the user of the shop in dispute from tailoring work

and now appellant started the work of beauty parlour in the shop in dispute. The respondent served a legal notice upon defendant No.1 but despite service, neither he paid the rent due towards him, nor vacated the shop in dispute.

5. It is contended that both the Courts have erred in not considering the fact that notice under Section 106 of Transfer of Property Act was given for 15 days to vacate the premises instead of 6 months.

6. Heard, the learned counsel for the appellant and perused the record.

7. There is no dispute regarding the relationship of landlord and tenant between the parties. It is admitted that notice was served upon the appellant. If an eviction suit has been filed under the general law, then suit itself is a notice to quit and no notice to quit was necessary under Section 106 of the Act in order to get a decree of eviction. Admittedly, the property in question was taken on rent by defendant No.1 and afterwards, appellant daughter of defendant No.1 has started the business of beauty parlour therein. No evidence in rebuttal to that has been led by the appellant to prove the fact that it does not amount to termination of rent agreement. There is sufficient evidence that the respondent requires the premises in question for own use and occupation.

8. Considering all the facts and circumstances of the case, this Court finds that the contentions raised on behalf of the appellant have no

merit and there is no scope for interference in the well reasoned judgments passed by the Courts below.

These are pure findings of fact. No question of law, much less the substantial question of law arises in the present appeal.

Dismissed in limine.

(JITENDRA CHAUHAN)
JUDGE

May 09, 2016.
Davinder Kumar