

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

**RSA No.5396 of 2015 (O&M)
Date of decision:12.02.2016**

Makhan Singh ... Appellant
Vs.

Malook Singh ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. M.S.Dhami, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-defendant is aggrieved of the decretal of the suit for possession by the Lower Appellate Court.

Mr. M.S.Dhami, learned counsel for the appellant submits that alleged rent note was executed for a sum of ₹50,000/-, for security, therefore, the suit for ejectment and possession in respect of claim of mesne profit w.e.f.27.08.2004 was not maintainable. Even alleged notice is not conforming with the provisions of Section 106 of the Transfer of Property Act and thus, prays for setting aside of the impugned judgment and decree of the Lower Appellate Court.

I have heard learned counsel for the appellant-defendants appraised the impugned judgments and decrees.

I am of the view that there is no substance in the aforementioned arguments, for, the factum of tenancy has been admitted in the written statement. Before filing of the suit, legal notice dated 04.01.2012 as per the provisions of Section 106 of the Transfer of Property Act, seeking ejectment from the shop through registered post was sent and the same has not been refuted. Once the factum of tenancy has been admitted, the appellant-defendant cannot be permitted to set up a story of converting surety of Rs.50,000/- on a piece of paper. No direct and cogent evidence has been led to prove the same.

In view of the aforementioned observations, I do not intend to differ with the findings rendered of the Lower Appellate Court, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 12, 2016
savita