

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

CR No. 5884 of 2017 (O&M)
Date of Decision: 28.09.2017

SHREE KRISHNA SUDAMA MANDIR

-PETITIONER

VS

SATBIR SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Dr. Govinder Singh Brar, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J. (ORAL)

CM-20739-CII-2017

For the reasons mentioned in the application, the application is allowed. Accompanying documents are taken on record subject to just exception.

Main case

Defendant has filed the present revision petition against the judgment and decree dated 21.05.2016 passed by Civil Judge (Junior Division), Hisar whereby suit under Section 6 of the Specific Relief Act filed by the respondent was decreed.

Admittedly, the respondent was inducted as a tenant in shop No.6 situated at Main Bazar, Barwala, District Hisar in the year 2001 at a monthly rent of Rs.600/- per month by the petitioner-Trust. Respondent was operating as a tailor in the

premises in question. In the year 2011, a civil suit for mandatory injunction was filed by the respondent against the petitioner-Trust for a direction to the petitioner-Trust to accept the monthly rent of Rs.600/- per month and also not to interfere in the possession of the respondent. The said suit was decreed on 19.02.2013. The defendant alleged that on 26.10.2014, he was dis-possessed despite the decree dated 19.02.2013 in his favour, for which FIR No.399 dated 26.10.2014 was registered against President of the Trust.

On 28.10.2014, the respondent-decree holder filed execution of judgment and decree dated 19.02.2013. During pendency of said execution, the respondent also filed suit under Section 6 of the Specific Relief Act for restoration of possession.

In the stand taken by the defendant-petitioner, it has been pleaded that the plaintiff himself vacated the shop and gave possession to the petitioner-Trust and thereafter, he got registered a false FIR on 26.10.2014 against the President of the Trust. After dispossessing the defendant in violation of decree dated 19.02.2013, it could not be established on record by the petitioner that the respondent was ever ejected from the premises in due course of law. The stand taken by the petitioner was not appreciated by the trial Court with reference to any evidence on record. Merely filing an execution of decree dated

19.02.2013 cannot be treated to be an impediment in progress of the suit under Section 6 of the Specific Relief Act.

Having considered the submissions made by learned counsel for the petitioner, I do not see any error of jurisdiction in the impugned order passed by the trial Court decreeing the suit under Section 6 of the Specific Relief Act on the basis of material that has appeared on record.

Accordingly, the present revision is dismissed.

28.09.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No