

110.

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

Civil Revision No.1033 of 2018

Date of decision:16.02.2018.

LAKSHMI DEVI

... Petitioner

Versus

ASHOK JOSHI

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Nishant Sulanki, Advocate,
for the petitioner.

HARI PAL VERMA, J.(Oral)

Petitioner-plaintiff has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 17.11.2017 (Annexure P-7) passed by learned Civil Judge (Junior Division) Phagwara.

The petitioner-plaintiff has filed a suit for possession, mense profit/damages and for permanent injunction against the respondent-defendant. In the suit, it has been prayed that decree of possession may be passed in favour of plaintiff and against the defendant, directing him to vacate and hand-over the actual, vacant and peaceful possession of the suit property situated in Guru Teg Bahadur Nagar, Phagwara, District Kapurthala, as shown in the site plan in Red Colour annexed with the plaint. In addition thereto, a decree for mesne profit/damages in favour of plaintiff has also been prayed for.

On notice having been issued by the Civil Court, the defendant

had put in appearance and filed written statement to the plaint wherein a

specific objection has been raised that the suit under Section 106 of the Specific Relief Act is not maintainable as the demised premises falls within the ambit of Municipal Corporation, Phagwara.

I have heard learned counsel for the petitioner and perused the record.

This Court finds that there is no illegality in the order passed by learned Civil Judge (Junior Division), Phagwara as it is a matter of evidence as to whether the suit property falls within the area of Village or within the area of Municipal Corporation. In case, it is found that the area falls within the municipal limits, then East Punjab Urban Rent Restriction Act would apply, whereas if it is found that it does not fall within the Municipal Corporation, then the suit for possession, as filed in the present form, is maintainable.

Considering the fact that it is a matter of evidence as to where the suit property falls, it can only be decided by the civil court on the basis of respective evidence led by the parties, therefore, this court does not find any reason for interference.

Dismissed.

(HARI PAL VERMA)
JUDGE

16.02.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No