

117

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.7749 of 2018

Date of Decision: 15.11.2018

The Karnal Cooperative Non Agriculture Thrift and Credit
(NATC) Society Limited

..... Petitioner

Versus

Pankaj Kumar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Rahul Deswal, Advocate,
for the petitioner.

SUDIP AHLUWALIA, J. (ORAL)

The present revision petition has been preferred against the impugned order dated 29.09.2018 passed by the Ld. Civil Judge (Junior Division), Karnal, in Civil Suit No.78 of 2017, in which eviction of the petitioner, who is stated to be the lessee in the demised premises, was sought for.

2. The grievance of the petitioner here is that its application dated 11.07.2018 for deciding a preliminary issue regarding the suit being premature in view of the pendency of the lock-in period during the extended period of lease agreement entered into between the parties was declined, although the preliminary objection regarding maintainability of the suit had also been taken in the original written statement.

3. The Ld. Trial Court held that it was the plaintiff's averments

that “the lease shall be for a period of 5+5+5 years commencing from 01.08.2008, was mentioned due to fraudulent act of the defendant” and that whether any such fraudulent act had been done at the time of the execution of the lease deed by mentioning the aforesaid periods could be decided only on the basis of evidence adduced by the parties, and that the preliminary issues are only those which are to be determined as “pure questions of law based on undisputed facts” which, however, was not the case in the present matter. Furthermore, it is seen that the aforesaid application itself had been filed at a belated stage on an adjourned date which was already fixed for leading evidence of the parties, and that too almost ten months after the written statement was originally filed.

4. In such circumstances, the Ld. Trial Court was obligated to pronounce its judgment on all the issues, once they had been framed in terms of Order 14 Rule 2(1) of the Code of Civil Procedure. As such, this Court finds no ground to interfere with the matter.

5. The matter is thus disposed off with the direction that the Ld. Trial Court shall continue with the trial and make endeavour to complete it expeditiously and to pronounce its findings on all issues including non-maintainability of the suit on the ground of the suit being premature, as asserted by the petitioner.

15.11.2018*Apurva***(SUDIP AHLUWALIA)****JUDGE**

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| 1. Whether speaking/ reasoned : | Yes/ No |
| 2. Whether reportable : | Yes/ No |