

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

RSA No.3082 of 2015

Date of Order: 01.02.2018

The Morni Khadi Gram Udyog Mandal, Ramgarh, District Panchkula

....Appellant

Versus

Brij Mohan

....Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gopal Sharma, Advocate for the appellant.

Mr. Arvind Seth, Advocate for the respondent.

AMIT RAWAL, J (ORAL)

Appellant-defendant is aggrieved of the concurrent findings of facts recorded by both the courts below whereby the suit of the plaintiff-respondent for possession by way of ejectment of the defendant-appellant from the two demised shops situated at Village Ramgarh, Tehsil and District Panchkula as also for recovery of arrears of rent has been decreed.

Learned counsel for the appellant submitted that during the pendency of the suit, which was filed on 31.5.2005, a Notification dated 17.3.2010, in exercise of powers conferred by Sub-section (2) of Section 3 of the Haryana Municipal Corporation Act, 1994 was promulgated whereby the Municipal Council, Panchkula, Municipal Committee, Kalka and Pinjore and adjoining rural area were declared to be a Corporation known as Municipal Corporation, Panchkula. In pursuance of the same, the shops had fallen within the estate of Municipal Corporation and therefore the provisions of Haryana Urban (Control of Rent and Eviction) Act, 1973 (for

brevity “1973 Act”) would apply. In support of his contention, he has relied upon judgments of this Court reported as **Krishan Lal and another Vs. Krishan, 2010 (2) Rent L.R 139, J.N Katyal and another Vs. Krishan Kapur alias Bittu and another, 2005 (1) RCR (Civil) 303, Ram Narain and others Vs. Ram Lal and others, 2003 (2) RCR (Rent) 660, Sawan Ram Vs. Gobinda Ram and anr, 1980 (1) RCR (Rent) 21**, to contend that the Civil Court would not have the jurisdiction to order for decree and it can be executed in view of the provisions of Rent Act.

Learned counsel for the respondent while referring to the judgment of Hon'ble Supreme Court reported as **Shri Kishan @ Krishan Kumar Vs. Manoj Kumar, 1998(1) RCR (Rent) 283, Mansoor Khan Vs. Motiram Harebhan Kharat, 2002(1) RCR (Rent) 605** and latest judgment of this Court titled as **Arun Sharma Vs. Usha Sunderam, 2015 (2) RCR (Civil) 72** submitted that the findings of the courts below are perfectly justified and the same be affirmed.

I have heard learned counsel for the parties and appraised the paper book.

No doubt, Full Bench of this Court in **Sawan Ram's case (supra)** has held that the Civil Court will not have no jurisdiction to try the suit for eviction where Rent Act is applicable. It is further held that the provisions of prevalent Rent Act would apply and the decree passed by the Civil Courts cannot be executed. However, Hon'ble the Supreme Court in **Mansoor Khan's case (supra)** has held that it is the date of applicability of the law which was to be seen. Admittedly when the suit was filed, the demised shops had not fallen in the jurisdiction of the Municipal Corporation, Panchkula. Afore mentioned view observed in **Mansoor**

Khan's case (supra) has been followed in terms of proposition of law laid down by Hon'ble Supreme Court in **Shri Kishan's case (supra)**.

This Court by relying upon both the judgments as referred to above and after thoughtful deliberation, finds that the crucial date would be operative from the date of commencement of aforesaid Act and not the subsequent one. Afore mentioned view was taken into consideration by this Court in **J.N Katyal and another Vs. Krishan Kapur and others, 2005(1) RCR (Civil) 303** by diluting the law laid down in **Sawan Ram's case (supra)** in view of judgment of Hon'ble Supreme Court in **Shri Kishan's case (supra)**.

In view of aforesaid, I am of the view that there is no merit in the contention raised by learned counsel for the appellant and no irregularity or perversity can be found with the judgments and decrees passed by the learned courts below.

Dismissed.

February 01, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No