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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.5918 of 2018 (O&M)
Date of Decision: 26.10.2018

Tarlok Singh

.....Appellant

Vs

Amarjit Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Dilpreet Singh Gandhi, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Defendant is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for possession and *mesne profits* for recovery of Rs.1,65,000/-.

[2]. Brief facts are that the plaintiff filed a suit for possession and *mesne profits* for recovery of Rs.1,65,000/- on the ground that she is owner of the suit property as detailed in the headnote of the plaint. In the month of December, 2012, defendant approached the plaintiff to allow him to keep his house hold articles in the shop in dispute for about 20 days, as he had fixed the marriage of his daughter. Request of the

defendant was accepted and he was accommodated in the aforesaid context. However, later on he became dishonest and did not vacate the shop. Defendant remained in illegal possession of the shop since December 2012. With this background, the suit came to be filed.

[3]. Defendant contested the suit thereby claiming oral tenancy at the monthly rent of Rs.700/-. He alleged that rent was paid upto April 2013 and there was existing relationship of landlord and tenant.

[4]. Both the parties went to trial. The trial Court found the possession of the defendant to be unlawful. The ownership of the plaintiff was not disputed. The stand of the defendant being a tenant under the plaintiff was negated. No evidence could be brought on record to reflect existence of any tenancy between the parties. No documentary evidence was led by the defendant/appellant to prove any tenancy with the plaintiff. No payment of rent could be exhibited on record, nor any evidence could be proved from the municipal committee to show that in the record of house assessment, the tenancy of the defendant/appellant was shown in any document. As a consequence of evidence not led on record, the trial Court as well the lower Appellate Court found that the defendant was in

illegal possession of the premises and was liable to pay *mesne profits*.

[5]. Learned counsel for the appellant made stress upon the cross-examination of the plaintiff herself, wherein she stated that there were four tenants in Property No.B2733 which is situated in Chawani Mohalla, Ludhiana. One of the tenant is Raj Tilak, who was paying the rent of Rs.2500/- per month. Second tenant was Kalander, who was paying the rent of Rs.2300/- per month. Third tenant was Motti, who was paying the rent of Rs.1800/- p.m. and fourth tenant was a new tenant, whose name was not disclosed.

[6]. The perusal of the cross-examination would not show any such admission proving the existence of tenancy between the parties in the context of any payment of monthly rent as was being paid by other persons. There may be tenants over the property of the plaintiff. Tenancy is a bilateral obligation/issue. Once the plaintiff has not admitted the defendant to be tenant, therefore, the admission of the plaintiff *qua* other tenants would not give any such impression of admission of tenancy with the defendant.

[7]. In view of aforesaid, the findings recorded by the Courts below on the basis of evidence led by the parties are not found

to be the result of any misreading of evidence in any manner, nor the same are perverse. No substantial question of law worth consideration is involved in the present appeal. The same is accordingly dismissed *in limine* along with misc. applications.

October 26, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No