

RSA-3522-2017 (O&M)

149

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

RSA-3522-2017 (O&M)

Date of decision : 04.12.2018

Nirmala Devi

... Appellant

Versus

Jasvir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.M. Munjal, Advocate
for the appellant.

AMIT RAWAL, J.

The appellant-defendant has not been successful in defending the suit for possession and recovery of ₹2,10,360/- ordering ejectment being sitting tenant.

Learned counsel appearing on behalf of the appellant-defendant submitted that in view of the objection taken with regard to the jurisdiction of the civil court, issue No.4 was framed. The finding in respect of issue No.4 has been rendered against the appellant-defendant. In fact the area of the suit property was brought within the limits of the Municipal Committee by virtue of notification dated 06.04.1998, but the same was under challenge and its implementation was stayed. The respondent-plaintiff had earlier filed rent petition, but in view of the interim stay, withdrew and filed the suit in 2011. The notification was quashed and the writ petition was allowed. However, in 2012, the area was again brought within the precincts

RSA-3522-2017 (O&M)

of Municipal Committee. In such circumstances, the pendency of the suit and its continuation could have been a hindrance as the appeal is continuation of the suit.

I am afraid the aforementioned argument is not sustainable, for, the promulgation of the notification would not relate back to the filing of the suit. Concededly, on the date of filing of the suit, there was no notification bringing the disputed area within municipality limits. In such circumstances, the remedy was to seek ejectment as per the provisions of Sections 106 and 107 of the Transfer of the Property Act. This is what has been held by the Courts below. No contrary evidence, in that regard, has been led.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Munjal to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

04.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**