

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

RSA No.4092 of 2017 (O&M)

Date of decision : 03.07.2018

Bhavisan Singh

...Appellant

Versus

Municipal Council, Khanna and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravi Kapur, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Learned counsel for the appellant pleads no instructions.

This appeal is pending for more than one year. No one has come to assist the Court. Hence, this Court is left with no choice but to read and decide.

The plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

The plaintiff had filed a suit for declaration claiming that he is not partner of M/s Karnail Singh and Company.

Both the Courts have found that this suit has been filed to avoid the recovery of the amount. The Courts have further noticed that the plaintiff as a partner filed a previous suit on 05.10.2001. Still further, the Courts have noticed that the proceedings under the Public Premises Act were initiated against the firm as well as the plaintiff-appellant and the

recovery of the arrears of rent was ordered. The trial Court has found that the deed of partnership has been placed on file as Ex.D2. It may be noted that the aforesaid firm M/s Karnail Singh and Company-defendant No.3 had taken on rent the premises for running a eating joint, cycle stand and sale of fruits for the period from 01.06.2001 to 31.05.2002. However, the firm and its partners did not pay the entire amount to the Municipal Council, Khanna.

On reading of the grounds of appeal, it can safely be recorded that neither the plaintiff-appellant has pointed out any substantive mis-reading of the evidence nor any perversity in the judgments passed by the Courts below. The appellant in the grounds of appeal has proposed the following substantial questions of law:-

- “i) Whether the judgments and decrees passed by both the Courts below are not only highly illegal, unjust, arbitrary, non-consideration of vital evidence on the record but the same are also perverse as having been recorded by both the courts below against the evidence available on the record?*
- ii) Whether on the basis of oral as well as documentary evidence available on the record plaintiffs are proved not to be partner of M/s Karnail Singh and Company alongwith respondent No. 4 to 6?*
- iii) Whether manifest injustice has been occasioned to the appellants?”*

Question No.1 has already been answered by this Court while recording that no perversity or illegality in the judgments passed by the Courts below has been pointed out.

With regard to the second question, it may be noted that the partnership deed has been proved on file as Ex.D2. Apart therefrom, copy of

the affidavit of the appellant and a Special Power of Attorney executed by the appellant has been proved on file as Ex.D3 and Ex.D4. In such circumstances, question No.2 is also liable to be answered against the appellant.

Question No.3 is not a question of law.

In view thereof, there is no scope for interference.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

03.07.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No