IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.5317 of 2017 (O&M)
Date of decision: 20.02.2018

Dara Chand

...Appellant

Versus

Daya Rani and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Munish Gupta, Advocate,
for the appellant.

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Ritu Bahri, J.

This appeal has been filed against the judgment dated 18.10.2016 passed by the Additional District Judge, Hoshiarpur, dismissing an appeal filed by defendant-appellant against the judgment and decree dated 24.07.2013 passed by the Additional Civil Judge (Senior Division), Garhshankar, whereby suit filed by plaintiff-respondents for possession by way of ejectment of defendant-appellant has been decreed.

Daya Rani etc.-plaintiffs (respondents herein) filed the aforesaid suit alleging that they were owners/landlords of the shop in dispute, whereas defendant-appellant was in possession as tenant of the same at the rate of Rs.900/- per month. The said property was purchased by the plaintiffs from its previous owner Subhash Chand through registered sale deed dated 10.08.2007. As per the pleadings of the plaintiffs, defendant had not paid the rent since August, 2007. Thereafter, tenant of the defendant (appellant) had been terminated by serving a legal notice dated 12.10.2007 under Section 106 of the Transfer of Property Act (for short 'the Act'). However,

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2018.02.22 17:36
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defendant did not hand over vacant possession of the shop in dispute to the plaintiffs. Hence, the suit.

Upon notice, defendant-appellant filed written statement taking preliminary objections with regard to locus standi, cause of action etc. On merits, it was admitted that plaintiffs had purchased the shop in dispute from Subhash Chand. It was stated that the tenancy of defendant was permanent in nature. Subhash Chand had received rent upto the month of November, 2007 and only one month's rent was due towards him, which he was ready to pay. All other allegations made in the plaint were denied and prayer for dismissal of the suit was made.

Trial Court, after going through the evidence led by both the parties, decreed the suit. Appeal against the said judgment also met the same fate. Hence, this appeal.

Heard.

The ejectment order has been passed keeping in view that notice issued by plaintiff-respondents under Section 106 of the Act was duly served upon the defendant (appellant). It was observed that the plaintiffs had purchased the aforesaid property from the original owner Subhash Chander and tenancy of defendant-appellant was monthly in nature. The appellant had paid arrears of rent of two months w.e.f. 10.08.2007 to 12.10.2007. However, keeping in view the object of Section 106 of the Act, once a notice has been received by the defendant vide acknowledgement Ex.P5, suit of the plaintiffs (respondents) has been rightly decreed by both the Courts below.

No substantial question of law arises in this appeal.

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At this stage, learned counsel for the appellant makes a prayer that reasonable time may be granted to defendant-appellant to vacate the premises i.e. shop in dispute, in which he has been in possession for the last 10 years.

Keeping in view the hardship, which would be faced by the appellant, 9 months' time commencing w.e.f. 01.03.2018 is granted to the appellant for making alternative arrangement, subject to furnishing an undertaking on or before 01.03.2018 before the Execution Court that he shall hand over actual physical vacant possession of the shop in dispute to plaintiff-respondents by 30.11.2018. The undertaking shall also state that he has cleared all the arrears of rent and shall continue to pay future rent at the rate of Rs.1500/- per month by 10th of each calendar month.

Needless to say that any violation of the aforesaid terms shall entitle the plaintiffs (respondents) to seek his eviction forthwith with police help, if necessary, without recourse to any other remedy besides the appellant making himself liable in contempt proceedings.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

20.02.2018
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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