

RSA-5886-2017 (O&M)

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

RSA-5886-2017 (O&M)

Date of decision : 06.12.2018

Banshidhar (deceased) through LRs

... Appellant

Versus

Devender Kumar Sanghi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

AMIT RAWAL, J.

The appellant-defendant has not been successful in defending the ejectment decree in a suit for possession filed by the respondent-plaintiff/landlord/owner in respect of shop.

The plaintiff asserted that the possession of the shop was given on monthly rent to the appellant-defendant, but had not been a good tenant, thus, sought the ejectment and also claimed mense profits. It was alleged that construction of the shop was completed on 31.08.1992 and the tenancy was created on 01.09.1992, therefore, the provisions of Rent Act would not be applicable. The tenancy was terminated vide notice dated 27.04.2001.

The defendant opposed the suit by raising dispute qua jurisdiction and rate of rent. However, as per the provisions of Order 15 Rule 5 of CPC, did not pay the amount, resulting into, striking off the defence. In the un-controverted evidence, it has been established that the

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defendant was put into possession as a tenant and it was held that jurisdiction was of the Civil Court and not of the Rent Controller.

The present regular second appeal is accompanied by the applications seeking delay of 175 days in filing and 87 days in refiling the appeal. The explanation is bereft of the statutory requirement of law i.e. reasonable cause and unintentional act. Such contumacious tenant cannot be permitted to protect the implementation of the judgment and decree.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed on the ground of delay as well as on merits.

06.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**