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

**CR-2681-2018 (O&M)
Date of Decision: 10.07.2019**

Puran Singh

..... Petitioner

Versus

Manoj Kumar and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. G.S. Madan, Advocate,
for the petitioner.

Mr. R.S. Bajaj, Advocate,
for respondent No.1.

SUDIP AHLUWALIA J. (ORAL)

This revision petition is directed against the judgment dated 30.03.2018 passed by the Ld. Civil Judge (Junior Division), Jalandhar in a suit filed by respondent-plaintiff for restitution of possession of Shop No.6, Building No.5 situated at Mohalla No.6, Jalandhar Cantt.

2. Vide the impugned judgment dated 30.03.2018, the Ld. Trial Court decreed the suit filed by respondent No.1 under Section 6 of the Specific Relief Act and directed the petitioner-defendant to hand-over vacant possession of the suit property and also restrained the petitioner from alienating the same.

3. In passing the impugned judgment, the Ld. Court below was satisfied that the respondent-plaintiff was actually a tenant in the disputed shop, which tenancy he had inherited after the death of his father Mohan Lal alias Kashmiri Lal, and that he had been forcibly and illegally dispossessed

by the petitioner-defendant in conspiracy with Kiran widow of Late Sanju Kumar, who was the deceased brother of the respondent by breaking upon the locks of the shop in the night of 10th September, 2012.

4. After considering the oral and documentary evidence led by both sides, the Ld. Court below came to a finding that respondent-plaintiff was actually in possession of the suit shop before being dispossessed therefrom, and that the story of the petitioner-defendant that possession of the same had been delivered peacefully to him by Kiran widow of deceased Sanju Kumar, was not so convincing, since the petitioner-defendant in his Written Statement had altogether denied that at any time, the respondent-plaintiff was ever a tenant under him or in possession of the disputed shop.

5. The clinching evidence in favour of the respondent-plaintiff before the Ld. Court below clearly happens to be the series of Rent Receipts exhibited on behalf of the plaintiff-respondent, which were issued in his name in respect of the demised Shop No.6 itself under the signature of the petitioner-defendant. From his side, the petitioner failed to lead any kind of documentary evidence to support his version of the facts, and it was otherwise his case that the Rent Receipts led into evidence on behalf of the respondent-plaintiff were forged and fictitious documents inasmuch as he had issued blank receipts under his signature to Kiran widow of deceased Sanju Kumar, on her request without insisting on payment of rent ostensibly on account of sympathy due to demise of her husband, who was claimed to have been the actual tenant in the shop.

6. In the opinion of this Court, the approach of the Ld. Court below in disbelieving the version of the petitioner was justified, in the given circumstances. The Ld. Court below correctly observed that where the

petitioner-defendant had alleged that the Rent Receipts relied upon by the tenant-plaintiff were forged and fabricated, the burden of proof automatically shifted upon him to establish this claim since, in any case, the genuineness of his signatures on the receipts was not denied. Furthermore, it transpires that the concerned lady Smt. Kiran, who allegedly took the blank signed receipts from the petitioner-defendant, as claimed by him, was examined as DW-3 from his own side in the suit. But no statement whatsoever was forthcoming from her either in her examination-in-chief or even in her cross-examination that she had at any time obtained blank receipts from the petitioner or had passed the same on-to the respondent-plaintiff, which were later misused.

7. Nevertheless with the filing of this revision, it was also submitted on behalf of the petitioner that after the impugned decision of the Ld. Court below, the petitioner has been exonerated/discharged in a criminal trial which was initiated at the instance of the respondent-plaintiff on the same allegations of having been forcibly and illegally dispossessed from the disputed Shop by the petitioner. This according to Ld. Counsel for the petitioner would go to show that the findings of the Ld. Court below to the effect that the respondent was actually in possession of, and was illegally dispossessed by the petitioner from the disputed shop, are incorrect. When such submission was raised before the Court, a Co-ordinate Bench in its Order dated 27th March 2019, permitted the petitioner's counsel to address his arguments on the basis of any law that he wish to cite on the question *“that evidence led in criminal proceedings, leading to a finding in favour of a party to a lis, can be read into a civil lis in which evidence was led prior to the criminal proceedings, even to upset the*

findings of the civil court which naturally were based on the evidence led before it in the civil lis”.

8. With reference to the aforesaid order, Ld. Counsel for the petitioner has cited the decision of the Hon'ble Madras High Court in “**R. Thangavel Vs. K. Palannisamy**” 2017(2) MLJ (Criminal) 746, to answer the query raised in the earlier order dated 27.03.2019, which was reproduced subsequently on 24.05.2019. The High Court in its aforesaid decision had observed:-

“29. It is to be pointed out that the judgment in Criminal Court may be relevant only to point out that there was a trial resulting in Conviction or Acquittal. The decision of the concerned Criminal Court cannot be pressed into as one binding in civil action. The Criminal Court Judgment is held admissible evidence in civil proceedings only with an aim of exhibiting that there was a Criminal Case with identical facts entailing an Acquittal. Further, an admission in criminal proceedings cannot be proved in a civil case by furnishing the Criminal Court Judgment as a Civil Court is bound to arrive at a decision by itself, based on the given facts placed before it. Any finding in criminal proceedings, is not binding in civil proceedings as opined by this Court. Besides this, it cannot be forgotten that a judgment of acquittal is irrelevant in a civil suit based on the same cause of action, just as a judgment of conviction is irrelevant in a civil suit that facts on which conviction is passed as per decision Onkarmal v. Banswarilal reported in AIR 1962 RAJ. at page 127.”

9. However, the aforesaid citation does not help the petitioner in the present case. At the most what can be established is that there was a criminal case/complaint on the same allegations at the instance of the respondent in which the petitioner was subsequently acquitted. But as

explicitly noted in the citation itself that “besides this, it cannot be forgotten that a judgment of acquittal is irrelevant in a civil suit based on the same cause of action, just as a judgment of conviction is irrelevant in a civil suit that facts on which conviction is passed as per decision **Onkarmal v. Banswarilal reported in AIR 1962 RAJ. at page 127**”.

10. In view of the observations recorded in the preceding paragraphs, this Court finds no justification to interfere with the impugned judgment of the Ld. Trial Court in its revisional jurisdiction.

11. Dismissed.

10.07.2019

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No