

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2187 of 2019
Date of decision: 1.4.2019

Sushil Kumar Shukla

.. Petitioner

v.

Rajinder Pal Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S. S. Swaich, Advocate for the petitioner.

...

AVNEESH JHINGAN, J. (Oral)

The present civil revision petition has been filed being aggrieved of the order dated 31.1.2018 passed by the Civil Judge (Junior Division), Rupnagar (hereinafter described as 'Civil Court') dismissing the application for staying the proceedings.

The facts as pleaded in the petition are that in 2008, respondent No. 1-plaintiff (hereinafter described as 'the respondent') filed a suit for possession of the shop in dispute pleading that the petitioner-defendant No. 1 (hereinafter described as 'the petitioner'), his wife and one Amar Deep Singh are in unauthorised possession thereof. The suit was decreed vide judgment and decree dated 2.8.2014. Aggrieved of the judgment and decree, the petitioner preferred an appeal. The same was dismissed on 17.9.2015. Further, RSA No. 6136 of 2015 was filed by the petitioner, it is stated that notice of motion was issued and the executing court was directed

now pending for 4.9.2019.

In the meantime, the respondent filed a suit for recovery of ₹4,34,000/- mesne profits as rent @ ₹3,500/- per month for unauthorised and illegal possession of the shop in dispute. The pleadings were completed and evidence of the respondent was concluded. The matter was fixed for evidence of the petitioner. In spite of availing opportunities, the petitioner did not produce any evidence and moved an application for staying the proceedings. It was argued before the Civil Court that RSA against the judgment and decree passed in the suit for possession is pending and operation of the judgment and decree has been stayed by this Court. However, the counsel failed to produce the order of stay. The Civil Court dismissed the application stating that no order of stay has been produced, moreover the present suit was for recovery of mesne profits and the earlier suit was for possession of the shop. Aggrieved of the said order, the present revision petition has been filed.

Learned counsel for the petitioner contends that the respondent is pursuing his remedy wrongly against the petitioner as the tenant in the shop in dispute was the petitioner's brother-Jatinder Kumar, the wife of the petitioner is working in the shop and Amar Deep Singh is a servant. It is argued that the dispute would be substantially the same as in the earlier suit.

The contention raised is not well founded. It has come on the record that the counsel arguing before the Civil Court wrongly stated that operation of the earlier judgment and decree has been stayed. The interim order passed by this Court in RSA has been annexed in the present petition, the only direction was to the executing court to adjourn the matter beyond the date fixed before this Court.

There is no ground to stay the proceedings of the present suit. The earlier suit was with regard to possession of the shop in dispute, whereas the present suit is for recovery of mesne profits. There is no challenge to the fact that the shop as on date is owned by the respondent and as per his pleadings in the suit, he has not received any rent. The said issue is not connected with the earlier proceedings. The present suit would be decided on the basis of evidence led and arguments addressed. There is no occasion for the Civil Court to wait for the outcome of the proceedings in the earlier suit.

No interference is called for in the present petition. The same is dismissed.

(AVNEESH JHINGAN)
JUDGE

1.4.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No