

RSA No.2055 of 2019 (O&M)

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

RSA No.2055 of 2019 (O&M)

Date of decision: 03.07.2019

Surjit Singh

.....Appellant

versus

Balihar Chand

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Bhupinder Banga, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Tenant-plaintiff has filed instant Regular Second Appeal challenging judgment and decree of the First Appellate Court dated 25.01.2019, dismissing his suit for injunction while setting aside judgment and decree of the trial Court dated 16.02.2017 in his favour.

Briefly, appellant claiming himself to be tenant, filed a suit for permanent injunction to refrain the respondent from interfering and dispossessing him from the demised shop detailed in para No.1 of the judgment of the trial Court situated in the abadi of Village Mukandpur, Tehsil Nawanshahr, District S.B.S. Nagar, forcibly and illegally, except in due course of law.

After holding trial, trial Court decreed the suit, thereby restraining the respondent from dispossessing the appellant from the demised shop except in due course of law vide judgment and decree dated 16.02.2017.

Being aggrieved, respondent filed appeal before the First Appellate Court, which was accepted vide judgment and decree dated 25.01.2019, while setting aside judgment and decree of the trial Court dated

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16.02.2017.

Learned counsel for the appellant *inter alia* contends that tenancy of the appellant over the demised shop was never disputed by the respondent. Therefore, appellate Court has failed to appreciate that appellant cannot be evicted except in due course of law.

Having given thoughtful consideration to the submission made by learned counsel for the appellant, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

Admittedly, respondent has filed eviction petition against the appellant, which is pending adjudication. Thus, filing of eviction petition by the respondent in itself is a fact which shows that respondent never intended to dispossess the appellant from the demised shop forcibly or illegally, except in due course of law.

No question of law much less substantial has been raised in this appeal.

In view of above, instant appeal, being devoid of any merit, is dismissed in limine.

July 03, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.