

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

RSA No.2591 of 2019 (O&M)

Date of Decision:20.05.2019

Vikas Kumar

.....Appellant

Versus

Subhash Chander Narula

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Sanjeev Kumar Birla, Advocate
for the appellant.

Mr. Prateek Gupta, Advocate
for Mr. Alankar Narula, Advocate
for the respondent.

LISA GILL, J.

Appellant is aggrieved of judgement and decree dated 08.01.2019, passed by learned Civil Judge (Jr. Division), Gurugram, as well as judgement and decree dated 26.04.2019, passed by the learned Additional District Judge, Gurugram.

Brief facts are that the present appellant had filed a suit for permanent injunction as well as mandatory injunction against the respondent-landlord. It was pleaded by the appellant that he was inducted as a tenant in the disputed premises at a monthly rent of ₹9000/-. The landlord had threatened to dispossess him, therefore the suit for permanent injunction was filed.

It is not in dispute that the matter was amicably resolved between the parties before the Mediation Centre, District Court, Gurugram on 26.07.2017. Terms and conditions of the settlement read as under:-

- “1. Both the parties have agreed that Vikas will vacate flat no. 27, Hewo Apartment, Sector 15, Part-II, Gurgaon

- latest by 31.07.2017.
2. That both the parties have agreed that Vikas will continue to pay rent against receipt till the time he vacates the said flat.
 3. That both the parties have agreed that Subhash will not interfere in the peaceful possession and not withdraw basic amenities of flat in which Vikas is residing till 31.07.2017.
 4. That after 31.07.2017 Subash Chander will have a right to get the said flat vacated from Vikas through due process of Court.
 5. That Vikas will withdraw the case pending in the Referral Court on the date fixed i.e. 28.07.2016.”

The suit was accordingly withdrawn on 28.07.2016 after recording the statements of the parties and the parties were to remain bound by the settlement, Ex.C1. The appellant, however, did not vacate the premises. An application was filed by the landlord seeking execution of order dated 28.07.2016, which was however dismissed by the learned Civil Judge (Jr. Division), Gurugram, on 30.08.2017, while observing that as a decree had not been drawn up at the time of withdrawal of suit, execution petition filed by the landlord was unexecutable. However, liberty was afforded to the landlord to file an application for drawing up a decree before the competent Court vide order dated 30.08.2017. The relevant extract of order dated 30.08.2017, reads as under:-

“However, before parting with this order, this Court would like to add that as the settlement arrived in the Mediation centre dated 26.07.2016 as well as statement made before the court by both the parties dated 28.07.2016 and the order dated 26.07.2016 passed in CS/2037/2016; 218 of 2016 are not under dispute, **therefore, the decree-holder is at liberty to file an application for drawing up of the “decree” in the civil suit.**”

An application under Section 151 CPC was accordingly filed by the respondent-landlord for drawing up a decree in pursuance to decision

dated 28.07.2016 on the basis of settlement dated 26.07.2016. This application was allowed by the learned Civil Judge (Jr. Division) Gurugram, vide impugned order dated 08.01.2019.

Appeal filed by the present appellant was dismissed by the learned Additional District Judge (Gurugram), vide impugned judgement and decree dated 26.04.2019.

Aggrieved therefrom, present appeal has been filed.

Learned counsel for the appellant vehemently argues that it is the defendant-landlord, who had not complied with the terms and conditions of the settlement. A legal notice dated 26.12.2016 had been issued by him to the appellant, stating that the tenancy stood terminated due to breach of condition of the deposit of rent. Rent in question was duly deposited by the appellant, though receipts were not issued by the landlord. Therefore, both the Courts below have wrongly directed the drawing up of a decree in this case. It is thus prayed that the present appeal be allowed and the application filed by the respondent-landlord be dismissed.

At this stage, Mr. Prateek Gupta, Advocate for Mr. Alankar Narula, appears on behalf of the respondent. Power of attorney filed in Court today is taken on record subject to just exceptions. Copies of the compromise, Ex.C-1, order dated 30.08.2017 and the statement of the parties recorded on 28.07.2016 have been furnished in Court by him today.

I have heard learned counsel for the parties and have perused the file with their assistance.

Filing of the suit by the present appellant and its withdrawal on the basis of the compromise dated 26.07.2016 (Ex.C1) is not in dispute.

Learned counsel for the appellant is unable to deny that the terms and conditions of the compromise as mentioned above, were indeed entered into by the parties on 26.07.2016. Pursuant thereto, the suit was withdrawn on 28.07.2016 after recording the statements of the parties.

Learned counsel for the appellant is unable to point out any ground whatsoever for interfering in the well reasoned orders/judgements passed by both the learned Courts below. There cannot be any bar against the drawing up of a decree in the factual matrix of this case, as detailed in the foregoing paras. It is apparent that the present is a dishonest attempt by the appellant to retain possession of the property in an illegal manner. Having first entered into a compromise, the appellant backed out from the same and has successfully stalled the matter for this long. Lack of *bona fides* on the part of the appellant are apparent on the face of it.

Learned counsel for the appellant, is unable to point out any question of law much less substantial question of law which may be involved for consideration in this regular second appeal.

No other argument has been raised.

Keeping in view the facts and circumstances as discussed above, impugned judgments and decrees dated 08.01.2019 and 26.04.2019 passed by the learned Civil Judge (Jr. Division) Gurugram and learned Additional District Judge, Gurugram, respectively, are upheld.

Present appeal is, consequently, dismissed.

20.05.2019
s.khan

[LISA GILL]
Judge

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