

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SAO No. 26 of 2007 (O&M)

Date of Decision: 30.04.2019

Avadesh Kumar

...Appellant

VERSUS

Trishla Devi

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jagdish Manchanda, Advocate
for the appellant.

None for the respondent.

SURINDER GUPTA, J. (Oral)

Heard.

Plaintiff-Trishla Devi filed suit for possession of shop bearing no. 93/7 situated in main bazar, Sadhaura, District Yamunanagar by way of ejectment of defendant-appellant-Avadesh Kumar. The suit was dismissed as vide notification dated 28.03.2006, Sadhaura was declared to be local area under the name of Municipal Committee, Sadhaura in District Yamunanagar.

Learned trial Court observed that provisions of Haryana Urban (Control of Rent and Eviction) Act, 1973 (later referred to as 'the Act') has become applicable to premises, as such, the same cannot be got vacated under the general law.

Plaintiff filed appeal before District Judge, Yamunanagar, which was accepted as Government of Haryana vide notification dated 27.06.2007 had again established *gram panchayat* in the name of Sadhaura and the disputed shop fell within the area of *gram panchayat*, thereby taking the same out of the purview of 'the Act'.

Defendant-appellant has filed appeal against order passed by

learned Ist Appellate Court with the plea that notification of Government of Haryana is bad in the eyes of law.

Learned counsel for the appellant has argued that vide subsequent notification issued after 2007, Sadhaura has again been constituted into a Municipal Committee, however, he was not having that notification. The shop at the time of passing of order dated 24.07.2007, could not be got vacated as per provisions of 'the Act', as such, District Judge, Yamunanagar has rightly accepted the appeal. It is a question of fact to be decided by the trial Court as to whether suit of plaintiff is not maintainable in view of any subsequent notification?

The order passed by Ist Appellate Court suffers from no legal or factual infirmity calling for any interference in this appeal, which has no merit.

Dismissed.

April 30, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No