

RSA-1188 of 2013 (O&M)
Date of Decision: 12.9.2019.

Dalip Mata

---Appellant

versus

Har Bhagwan and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. R.S.Sihota, Senior Advocate with
Mr. Anurag Jain, Advocate and
Mr. B.R.Rana, Advocate
for the appellant

Ms. Harveen Mehta, Advocate,
for Ms. Promila Nain, Advocate
for respondent No. 1

Mr. Mukesh Kumar Verma, Advocate
for respondents No. 2 to 4

Rekha Mittal, J.

Challenge in the present appeal has been directed against the judgment and decree dated 30.11.2012 passed by the Additional District Judge, Rewari whereby appeal against judgment and decree dated 12.10.2010 passed by the Additional Civil Judge (Senior Division), Rewari (hereinafter referred to as “trial court”) dismissing suit of the plaintiff-respondent was accepted, impugned judgment and decree was set aside and suit filed by the respondent-plaintiff was decreed to the effect that appellants-defendants are restrained from interfering in possession of the plaintiff over the suit land and from demolishing the suit property, except in due course of law.

In para 14 of the judgment, the First Appellate Court has

noticed that no notice was given to the plaintiff and notice under Section 120 of the Haryana Municipal Act was given only to defendant No. 1 who is not occupant of the suit property which in fact is in occupation of the plaintiff being a tenant in the property. By relying upon judgments of this court **Raj Masih vs. Municipal Corporation, Amritsar through its Commissioner and another 1987 SLJ 127** and **Improvement Trust, Ludhiana and another vs. Rajinder Singh 1999 (1) PLR 455**, it was held that respondent-plaintiff being in possession of the suit property as tenant is an interested person and he is adversely affected by demolition of the suit property, therefore, is entitle to a notice and an opportunity to defend his possession.

Counsel for the appellant is not in a position to dispute the ratio laid down in the aforesaid judgments, relied upon by the Court in Appeal.

Counsel for the respondent-plaintiff has referred to another judgment of this court **Dalip Mata vs. M/s Aya Ram Kanshi Ram and others RSA No. 2835 of 2014 decided on 25.8.2015** agreeing with the view expressed in the aforesaid judgments. In this view of the matter, I do not find an error much less perversity in the impugned judgment and decree that would call for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

12.9.2019

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No