

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3283 of 2016 (O&M)

Date of Decision: January 30, 2019

Parshotam Lal (since deceased) through L.Rs

...Appellant

Versus

Mohinder Pal

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Harish Kumar Verma, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.1270-C of 2019

For the reasons mentioned in the application, which is supported by an affidavit, order dated 22.11.2018, whereby the appeal was dismissed for non-prosecution, is recalled and the appeal is restored to its original number.

CM stands disposed of.

CM Nos.8731-C & 8732-C of 2016

For the reasons mentioned in the applications, which are supported by affidavits, delay of 12 days in re-filing and 18 days in filing the appeal is condoned.

Applications stand disposed of.

RSA No.3283 of 2016

The present Regular Second Appeal is directed against the concurrent findings of fact, whereby the suit of the appellant-plaintiff for injunction against forcible interference and dispossession in respect of the

suit property, i.e., Khokha/Shop, has been dismissed by the trial Court and affirmed in appeal.

Plaintiff had asserted that he had been in possession of a Khokha and carrying on the business of dairy, whereas the defendant submitted that there was a dissolution deed and the plaintiff had already been ejected. The possession was transferred by the Municipal Committee in the name of Mohinder Pal as previous to that, Rattan Chand was in possession.

Plaintiff examined the witness from the Municipal Committee, who stated that they had no authority to say regarding the possession in favour of the plaintiff. Defendant examined the witness from the Municipal Committee and proved on record receipt Ex.D4 to establish that the property was transferred in favour of Mohinder Pal defendant.

Mr. Harish Kumar Verma, learned counsel appearing on behalf of the appellant-plaintiff submitted that both the courts below have abdicated in not noticing the report of the Local Commissioner in extenso, who confirmed the possession of the plaintiff and even if the plaintiff was having forcible possession, the same could have been protected by granting injunction. Plaintiff emphatically denied the partnership deed and dissolution deed, much less the possession of the defendant. The defendant failed to belie the signatures and, therefore, documents could not have been looked into.

I have heard the learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the appellant.

Plaintiff, in cross-examination, admitted the transfer of the

Khokha/shop in question by the Municipal Committee in favour of the defendant. The defendant, on the other hand, had been able to prove the partnership deed and dissolution deed to establish that plaintiff was no longer interested in the business and it was in exclusive possession of the defendant. All these factors have been examined in extenso by the courts below. The report of the Local Commissioner, in such circumstances, could not have been looked into, particularly when he deposed that he was a tenant which was not the import of the order.

For the reasons mentioned above, I do not find any illegality or perversity in the concurrent findings of the courts below. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

January 30, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No