

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

**RSA No.5388 of 2014 (O&M)
Date of Order: 07.02.2019**

M/s G.D.S.Computer Centre, Faridabad

..Appellant

Versus

Shree Shakti Sewa Dal (Regd., Faridabad

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bharat Bhushan Sharma, Advocate,
for the appellant.

ANIL KSHETARPAL, J.(Oral)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the Court below.

It is undisputed that the plaintiff while filing the previous suit had made a similar prayer for mandatory injunction which was not granted.

Both the courts have correctly held that once the relief which was prayed in the previous suit was not granted, the same shall be deemed to have been refused in accordance with Section 11, Explanation 5 of the Code of Civil Procedure and therefore, it would operate as resjudicata.

Learned counsel for the appellant submitted that the appellant is a tenant and, therefore, the landlord has no right to keep his articles in the tenanted premises.

This court has considered the submission. This was exactly the case of the plaintiff in the previous suit. Once the present suit is hit by rule

of resjudicata as found by the courts below, the plaintiff cannot be permitted to reagitate the matter.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

February 07, 2019
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(ANIL KSHETARPAL)
JUDGE

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