

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

**RSA No.892 of 2017 (O&M)**

**Date of decision:29.01.2019**

Narinder Kumar

... Appellant(s)

Vs.

Municipal Council , Khanna and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. G.P.Vashisht, Advocate  
for the appellant.

**AMIT RAWAL J. (Oral)**

**C.M.No.1976-C of 2017**

For the reasons stated in the application which is duly supported by an affidavit, delay of 04 days in re-filing the appeal is condoned.

C.M. stands allowed.

**RSA No.892 of 2017 (O&M)**

The present Regular Second Appeal is directed against the concurrent findings of fact and law whereby suit of the appellant-plaintiff seeking declaration that he was not partner of the firm M/s Karnail Singh & Company alongwith consequential relief of permanent injunction restraining Executive Officer, Municipal Council from continuing and prosecuting the proceedings under Sections 4, 5 and 7 of The Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, has been dismissed.

The defendant-Municipal Council opposed the suit and denied that plaintiff was not partner of the firm by disclosing that civil suit bearing no.259 of 2001 was filed by the firm wherein the appellant was arrayed as plaintiff no.5 which was dismissed.

Mr. G.P.Vashisth, learned counsel appearing on behalf of the appellant submitted that handwriting expert PW1 submitted that signatures of the plaintiff on the partnership deed were forged. In such circumstances, action of the Municipal Council in recovering the use and occupation charges was not sustainable.

I am afraid the aforementioned argument is not sustainable as it is very easy way for the plaintiff to deny all the signatures, much less the previous suit as noticed above. However, it has not come on record that as to how he had been in possession of the suit property if had not taken the shop or stall on lease from the Municipal Council. Once there is already finding in the previous suit wherein the firm alongwith individual partners have signed and filed the suit, the plaintiff cannot be permitted to take different stand. No ground for interference is made out in concurrent findings of fact and law.

Resultantly, the regular second appeal is dismissed.

(AMIT RAWAL)  
JUDGE

January 29, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No