

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

RSA No. 4010 of 2019(O&M)

Date of decision: 2.3.2020

Kamaljit Singh @ Rajan

.....Appellant

VERSUS

Kuldeep Chand

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Dinesh Nagar, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

CM No.10914-C of 2019

Heard.

Allowed as prayed for.

Deficiency of Court fee has been made up.

Disposed of accordingly.

RSA No.4010 of 2019

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for possession of the demised premises i.e. two shops detailed in headnote of the plaint was decreed with a direction to the respondent/defendant to hand-over vacant possession of the suit property to the respondent/plaintiff within two months. The suit was also decreed with costs for recovery of arrears of rent from March 2011 at the rate of Rs.900/- per month for each shop with interest at the rate of 6% per annum. The appellant was restrained from changing nature of the suit property.

Apart from the fact that there is delay of 1 year, 7 months and 125 days in re-filing the appeal and 63 days in filing the appeal, the appeal sans merit and deserves to be dismissed.

The respondent/plaintiff filed the suit with averment that he is owner of the suit property, given on rent to the appellant/defendant at the rate of Rs.900/- per month of each shop in the month of April 1999 for running business of Music Centre and Fast Food. The tenancy was terminated by giving one month's notice dated 07.02.2011 sent through registered post. As the appellant failed to hand-over vacant possession of premises in question despite termination of tenancy, he is liable to pay mesne profits at the rate of Rs.5000/- per month for each shop from the date of termination of tenancy.

The appellant/defendant raised preliminary objections noticed in para 3 of judgment of trial Court. He denied service of notice under Section 106 of the Transfer of Property Act, 1882 (in short 'the Act'). However, he admitted that he is in possession of the suit property on monthly rent of Rs.900/- since 1999 and is regularly paying rent earlier to Kuldeep Chand and thereafter to Bachna Ram, his father, as per instructions of the plaintiff. A suit for permanent injunction was filed restraining the plaintiff from dispossessing the appellant.

The Courts have recorded consistent findings with regard to issuance of notice under Section 106 of the Act terminating tenancy of the appellant/defendant.

Counsel for the appellant has failed to point out that consistent findings recorded by the Courts suffer from a factual error much less a

legal flaw that would call for intervention. I have gone through the judgments impugned but find myself unable to accept contention of the appellants that there is any valid ground for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

MARCH 2, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no