

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 475 of 2014 (O&M)

Date of Decision: 26.02.2020

Deepak Gupta and Another

... Appellant(s)

Versus

Vijay Kumar and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Harchand Singh Batth, Advocate
for the appellants.

Mr. Anupam Bhardwaj, Advocate
for the respondents.

Anil Kshetarpal, J.

The plaintiff/appellants have filed the present regular second appeal against the judgment passed by the learned first Appellate Court while reversing the judgment & decree passed by the learned trial Court.

The plaintiffs have filed the present suit for possession of the shop on the basis of title. They claimed that they have purchased the property through registered sale deed dated 19.05.2003. It is further pleaded case that the defendant has taken forcible possession of the shop in question.

The defendant contested the suit and submitted that he is in occupation of the premises as a tenant at the rate of ₹ 15/- per month since the year 1970.

The learned trial Court decreed the suit. However, the learned first Appellate Court, on re-appreciation of the evidence, reversed the judgment & decree passed by the learned trial Court.

It has been found by the learned first Appellate Court that the defendant, represented by his legal heirs, are in continuous possession. The learned Court relied upon the electricity bills from 1992 i.e. Ex.DW.1/115 to Ex.DW.1/170, telephone bills along with receipts from the year 1993 i.e. Ex.DW.1/1 to Ex.DW.1/114 and copies of entries in the house tax register i.e. Ex.DW.1/227 to Ex. DW.1/229. It will be noted here that in the house tax record, defendant-Sham Lal (since deceased) is in possession of the property i.e. shop as a tenant at the rate of ₹ 180/- per annum i.e. ₹ 15/- per month.

This Court has heard learned counsel for the parties at length and with their able assistance, gone through the judgments passed by the Courts below.

In the present case, the plaintiffs have failed to prove that they were ever dispossessed by the defendant. The voluminous evidence led by the defendant proves his old possession. Hence, it is proved that the stand of the plaintiffs, as pleaded in the plaint, is not correct.

Keeping in view the aforesaid facts, there is no ground to interfere.

Dismissed.

The miscellaneous application(s), if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

February 26, 2020
“DK”

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