

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

RSA-1572-2021 (O&M)

Date of decision: 22.12.2021

M/s Sonu Karyana Store

....Appellant

Versus

Harpal Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Sonia G Singh, Advocate for the appellant

ANIL KSHETARPAL, J (Oral)

The appellant is the plaintiff in a suit for grant of decree of permanent injunction. He prays for protection of his possession on the ground that respondent had leased out the property in his favour. The defendant-respondent contested the suit with the assertion that the property was mortgaged to plaintiff's brother Sh.Rakesh Kumar, vide registered mortgage deed dated 09.10.1996. The relationship of landlord and tenant between the defendant and the plaintiff was denied. The defendant has already taken a stand that Rakesh Kumar is in the possession of the property till its redemption from the defendant, after paying the mortgage money. Learned trial court decreed the suit without recording any finding about the relationship of landlord and tenant.

Learned First Appellate Court, on re-appreciation of the evidence, has found that since the plaintiff has failed to prove that he was inducted as a tenant, therefore, the judgment and decree passed by the trial court is liable to be reversed.

Learned counsel representing the appellant contends that in

any case, the appellant (plaintiff) is in the possession of the property. Be that as it may, once the plaintiff has failed to prove any right, title or interest in the property, the defendant has a right to recover the possession on the redemption of the mortgage by due process of law. Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

22.12.2021

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE