

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.2930 of 2015 (O&M)

Date of decision:22.03.2022

Neha Chaudhary and another

...Appellants

Versus

Madan Mohan Huria

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Mamli, Advocate,
for the appellants.

Mr. R.K.S.Brar, Advocate
for the respondent.

ANIL KSHETARPAL, J (Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

While assailing the correctness of the concurrent findings of fact arrived at by the courts below, the defendants have filed the present Regular Second Appeal.

The suit is filed by the plaintiff (respondent herein) for grant of decree of possession by way of mandatory injunction claiming that the defendants were inducted as licencees and on termination of the licence, they are in unauthorized occupation.

The defendants asserted that they were inducted as tenants at a monthly rent of Rs.3,000/- per month. No rent note or rent receipt was produced by the defendants to prove the relationship of landlord and tenant between the plaintiff and the defendants. Both the courts therefore, decreed the suit.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments and decrees passed by the Courts below.

The learned counsel representing the appellants contends that the plaintiff, initially, filed an application before the Sub Divisional Magistrate seeking possession from the defendants. He submits that on the intervention of the Deputy Commissioner, the defendants were able to protect their possession. He further submits that the defendants did file an application under Section 6-A of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as 'the 1973 Act') for the deposit of the rent as the plaintiff refused to receive the same.

This Court has considered the submissions, however, finds no substance therein.

The learned counsel representing the appellants admits that the defendants have failed to produce any rent note or rent receipt proving their tenancy. The tenancy can be created by a bilateral agreement. In the present case, no documentary evidence in this regard has been produced. Both the Courts, on appreciation of the oral evidence, have come to a conclusion that the defendants were inducted as licensee and therefore, they have been directed to pay damages from the date of termination of license.

As regards the first argument, it may be noted that the Sub Divisional Magistrate and the Deputy Commissioner have no jurisdiction to finally adjudicate as to whether the plaintiff and defendant are the landlord and the tenant. In any case, the order of Deputy Commissioner does not record such finding as asserted by the learned counsel. Furthermore, it is the appellants, who filed an application under Section 6-A of the 1973 Act, for

the deposit of rent which was permitted by the Rent Controller without deciding the relationship of landlord and tenant between the plaintiff and the defendants.

In view of the aforesaid, the appellants have failed to make out a case for interference.

Dismissed.

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

March 22, 2022
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No