

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 2430 of 2023 (O&M)

Date of Decision: 08.01.2024

Ramesh Kumar Goyal

... Appellant(s)

Versus

Market Committee Tohana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Munish Kumar Garg, Mr. Tanu, Mr. Puneet Kapoor
and Mr. Gandhi Lal Aggarwal, Advocates, for the appellant(s).

Anil Kshetarpal, J.

CM-8146-C-2023

1. For the reasons stated in the application, the same is allowed and delay of 465 days in refiling the appeal is condoned.

RSA-2430-2023

2. The Regular Second Appeal in the States of Punjab and Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. In this regular second appeal, the correctness of the concurrent findings of the facts, arrived at by both the Courts below, is challenged by the plaintiff.

the legal notice sent by the defendant No.1 on 18.08.2018 is illegal, with a consequential relief of permanent injunction, has been dismissed by both the Courts below.

5. Both the Courts below have found that as per the rules, the fragmentation of the shop, which was allotted by the Market Committee, Tohana, is not permissible, whereas in this case, the shop has been divided into as many as eight parts. The learned counsel representing the appellant has failed to draw the attention of the Court to any rules, regulations or instructions permitting further fragmentation of the shop which was allotted by the Market Committee.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

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

January 08, 2024

“DK”

(Anil Kshetarpal)

Judge

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No