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

RSA-2116-2022 (O&M)

Date of Decision : 17.11.2025

KIRPA RAM (SINCE DECEASED) THR LRS

.... Appellants

VERSUS

TIRLOCHAN SINGH @ VICKY AND ANR

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. K.K. Saini, Advocate and
Mr. Raj Kumar Sharma, Advocate for the appellants.

ALKA SARIN, J. (ORAL)

CM-7274-C-2022

1. This is an application for condonation of delay of 48 days in filing the appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 48 days in filing the appeal is condoned.

CM-7275-C-2022

3. This is an application for condonation of delay of 1785 days in refiling the appeal.

4. For the reasons stated in the application, the same is allowed and the delay of 1785 days in refiling the appeal is condoned.

RSA-2116-2022

5. The present appeal has been preferred by the plaintiff-appellants challenging the judgments and decrees dated 05.03.2012 and 10.10.2014

passed by the learned Trial Court and the learned First Appellate Court, respectively.

6. Briefly stated, the facts relevant to the present *lis* are that the plaintiff-appellants herein filed the present suit for recovery of possession on the ground that defendant-respondent No.2 rented out a room in question (hereinafter to be referred as the 'dispute property') measuring 8 x 9 feet to the plaintiff-appellants on monthly rent of ₹1,100 excluding electricity and water charges. The plaintiff-appellants were also paying a sum of ₹250 per month to defendant-respondent No.2 towards electricity charges. Since the tenancy was an oral one, defendant-respondent No.2 did not issue any receipt in respect of the rent received by him. It was the case set up that the rent was paid upto the month of September 2004. The plaintiff-appellants have alleged that they have been running the business of manufacturing and selling of footwear under the name and style of M/s K.R. Footwear and also had the sales tax number in respect of the said business. It was still further the case that on 10.8.2004 the defendant-respondents came to the rented premises and demanded rent at the rate of ₹3,000 per month from August 2004 and an additional sum of ₹1,900 towards arrears of rent. The plaintiff-appellants refused to pay the increased rent however they offered to increase the rent @ 10%. The defendant-respondents got annoyed and threatened the plaintiff-appellants and asked them to vacate the disputed property within a period of 10 days failing which they would forcibly evict them. It was further the case that on 20.08.2004 the defendant-respondents came to the rented premises accompanied by 4-5 persons and started throwing the raw material of the

plaintiff-appellants out of the dispute property. The Police was called and the possession of the plaintiff-appellants was saved. However, on 14.09.2014 when the plaintiff-appellants reached the dispute property in the morning, they were shocked to find that the same had been badly damaged and the tools, raw material, shoes etc. along with other articles had been stolen. The plaintiff-appellants requested the defendant-respondent No.1 and one Harminder Singh to return the stolen articles and to restore the possession of the disputed property, however, they snubbed them and used filthy language about Caste. The matter was referred to the Police and the Police pressurized the plaintiff-appellants to enter into a compromise and refused to take action. Thereafter the plaintiff-appellants filed a complaint dated 17.09.2004 with the SSP, Chandigarh but despite that no action was taken. Since the plaintiff-appellants were forcibly dispossessed, hence the present suit.

7. The defendant-respondent No.1 appeared and raised various preliminary objections qua maintainability, *locus standi*, cause of action etc. On merits it was stated that the plaintiff-appellants themselves had vacated the disputed property on 31.01.2004. It was further the case that due to the act and conduct of the plaintiff-appellants, the building was resumed by the Estate Office, Chandigarh as the plaintiff-appellants were manufacturing and selling shoes which was not permitted and the running of the said business was against the bye-laws of the Chandigarh Administration. It was denied that the plaintiff-appellants had paid the rent upto September 2004. It was further the case that the plaintiff-appellants had vacated the disputed property in January 2004 and shifted the tenancy and started paying the rent @ ₹2,500 per month

plus ₹250 on account of electricity charges. Copy of an affidavit and compromise were attached with the written statement. Separate written statement was filed by the defendant-respondent No.2 who stated that the plaintiff-appellants had vacated the disputed property on 31.10.2004 and shifted to a different premises under the defendant-respondent No.1. It was reiterated that the building was also resumed by the Estate Office, Chandigarh.

8. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to the possession of one room fully detailed and described in para No.2 of the plaint as alleged ? OPP
2. Whether the present plaint is not maintainable ? OPD
3. Whether the plaintiff has suppressed the material facts from Court, if so, to what effect ? OPD
4. Whether the suit is bad for non-joinder and mis-joinder of necessary parties ? OPD
5. Whether the plaintiff has no cause of action and locus standi to file the present suit ? OPD
6. Whether the plaintiff is estopped from filing the present suit ? If so, to what effect ? OPD
7. Relief.

9. The learned Trial Court dismissed the suit vide judgment and decree dated 05.03.2012. Aggrieved by the same an appeal was preferred by

the plaintiff-appellants which appeal was also dismissed by the learned First Appellate Court vide judgment and decree dated 10.10.2014. Hence, the present regular second appeal by the plaintiff-appellants.

10. Learned counsel for the plaintiff-appellants would contend that the plaintiff-appellants were forcibly dispossessed from the disputed property. It is further the contention of the learned counsel that the factum of the tenancy has not been denied by the defendant-respondents rather they have admitted the same.

11. Heard.

12. In the present case the plaintiff-appellant, namely, Kirpal Ram stepped into the witness box and tendered his affidavit in examination-in-chief, however he did not appear for his cross-examination. One other witness examined by the plaintiff-appellants PW2 stated that on 14.09.2004 the plaintiff-appellants reached the shop in the morning and found that the same was badly damaged and the raw material, shoes and other goods had been stolen. In this regard the matter was reported to the Police. However, the plaintiff-appellants were pressurized by the Police to enter into a compromise. In his examination as PW2 the said witnesses had admitted that the plaintiff-appellants had shifted to another room shown as Point DX in the site plan (Ex.DW4/1). It was further admitted by the said witness that the goods of the plaintiff-appellants were now lying in the room shown as C and D. It was also admitted in the cross-examination that the plaintiff-appellants had shifted to the room shown as C and D in yellow colour in Ex.DW4/A. Both the Courts concurrently found that the plaintiff-appellants had shifted the possession

voluntarily following the compromise between the parties. Learned counsel for the plaintiff-appellants has not been able to show any evidence to the contrary. Rather, the fact that the plaintiff-appellant Kirpal Ram did not step into the witness box for his cross-examination which further strengthens the case of the defendant-respondents.

13. No question of law, much less any substantial question of law, arises in the present regular second appeal. This Court does not find any ground to interfere with the concurrent findings of facts recorded by both the Courts concerned. In view thereof, the present regular second appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.11.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No