

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

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Regular Second Appeal No. 1471 of 2006

Date of Decision: 29.2.2008

Rajinder Parshad

--- Appellant

Versus

The Gandhi Samarak Nidhi Punjab, Haryana  
And Himachal Pradesh Patti Kalyana (Karnal) --- Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

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**PRESENT:** Mr. Ashwani Gaur, Advocate for the appellant.

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**AJAY KUMAR MITTAL, J.**

This appeal at the instance of the defendant-Rajinder Parshad assails the concurrent findings of the courts below.

The plaintiff-Society filed a suit for possession by way of ejectment, against the appellant of premises shown with letters A B C D E F in red colour in the site plan appended with the plaint, on the averments that the appellant was the employee of the Society w.e.f. 7.4.1980 and the premises in question were given to him by the plaintiff for residence purpose on a monthly rent of Rs. 275/- which amount was being deducted from his salary. Services of the appellant were, however, terminated w.e.f. 20.10.2000 and thereafter he ceased to be the worker of the plaintiff. The defendant neither vacated the premises in question nor did he pay any rent to the plaintiff since 20.10.2000 and, thus, his possession over the premises was unauthorized. The plaintiff also prayed for a decree for recovery of Rs. 7,975/- which according to it was due

from the defendant on account of arrears of rent of the premises in question, with interest.

The defendant contested the plaintiff's claim. He claimed himself to be owner in possession of the disputed premises and denied the relationship of owner and tenant between the parties.

The trial court found that the plaintiff was the owner of the premises in dispute and observed that the defendant made an abortive step to claim ownership thereof by adverse possession and while doing so, he made an application for amendment of the written statement, which though was rejected but the admissions contained therein gave a way to the court to fortify the pleas of the plaintiff that the premises were given to him on rent and he was paying the rent at the rate of Rs. 275/- per month. It also observed that from his further admissions in the said application it stood proved that he was still in possession of the premises in question, but he could not show to the court as to in which capacity he was continuing in the possession of the said premises. With regard to the specific objection of the defendant that there was no relationship of landlord and tenant between the parties, the trial court held that though no such relationship was proved from the record but relationship of licensor and licensee certainly existed between the plaintiff and the defendant qua the premises in dispute, till at least 20.10.2000.

On the strength of these observations, the trial court vide judgment and decree dated 20.9.2005 decreed the suit of the plaintiff holding that the plaintiff was entitled to claim possession of the premises in dispute from the defendant. It further held that the plaintiff was entitled to recover a sum of Rs. 7,975/- as mesne profits for use and occupation of the premises in dispute, with interest at the rate of 6% per annum on the said amount from the date of filing the suit till realization thereof.

On appeal carried by the defendant, the first appellate court vide judgment and decree dated 24.12.2005 affirmed the findings recorded by the trial court.

I have heard learned counsel for the appellant and have also gone through the record. Both the courts below have recorded a finding that the plaintiff is the owner of the premises in dispute and the defendant therein was staying unauthorisedly as his possession over the said premises was rendered unauthorized no sooner did he cease to be the employee of the plaintiff-Society. This finding is based on correct appreciation of evidence and does not call for any interference by this Court in second appeal. Even before this Court also, learned counsel appearing for the defendant-appellant could not point out any error of law or perversity in the judgments under appeal which may persuade this Court to interfere.

No substantial question of law arises in this appeal which is the essential pre-requisite for exercise of jurisdiction in second appeal by this Court.

In view of the above, there is no merit in the appeal and the same is accordingly dismissed,

**February 29, 2008**  
**\*RKMALIK\***

**(AJAY KUMAR MITTAL)**  
**JUDGE**