

**IN THE COURT OF MS. KRISHNANUJA MITTAL, PCS
ADDITIONAL CIVIL JUDGE(SENIOR DIVISION),
FATEHGARH SAHIB. UID-PB0384**

Civil Suit No.204 dated 24.02.2021
Regd. No.CS/114/2021
CNR No.PBFG020001722021
Decided on:- 15.09.2023

Komal Kapila, aged about 40 years wife of Amit Kapila, proprietor of M/s Tejas Truck and Bus Body Builders, G.T.Road, Sirhind, Tehsil and District Fatehgarh Sahib through her husband/duly appointed attorney Amit Kapila, aged about 42 years son of Late Sh. Inderjit Kapila, resident of 3438, Ward No.9, Mohalla Harlalpura,Sirhind Mandi, Tehsil and District Fatehgarh Sahib.

.....Plaintiff

Versus

Inderpal Singh son of Sh. Kulwant Singh son of Sh. Sadhu Singh, resident of H. No. 4027, Ward No. 13, Bara, Sirhind, Tehsil and District Fatehgarh Sahib.

.....Defendant

(Suit for permanent injunction restraining the defendant, his agents, servants, Mukhtiar etc, on his behalf, from dispossessing the plaintiff from the suit property, marked by letters ABCDEFA shown by green colour in the site plan and as mentioned at letter-X below and from interfering into the peaceful possession of the plaintiff over

the same, illegally, forcibly or in any other manner, whatsoever.

DESCRIPTION OF THE SUIT PROPERTY

x):- The property in question is a workshop, as shown by green colour, marked by letters ABCDEFA in the site plan Annexure P-1 and the same is bounded as under:-

North: New Grain market,

South: G.T.Road,

East: Open Plot of market committee

West: Hunar Fabrication

situated at G.T.Road, Bara, Sirhind, Tehsil and District Fatehgarh Sahib)

Present: Sh. Vivek Sharma Adv. counsel for plaintiff.
Sh.Rishu Garg, Adv. counsel for defendant.

JUDGMENT:-

1. The plaintiff has filed the present suit for permanent injunction, as detailed in the head note of plaint.
2. In brief, facts of the present case are that plaintiff is tenant in the suit property. Defendant is owner of the suit property. Plaintiff is wife of Amit Kapila and said Amit Kapila is also duly appointed special attorney of plaintiff. As Such, the present suit has been filed by the plaintiff through her duly appointed attorney Amit Kapila and said Amit Kapila is competent to file and contest the present suit. ON 22.05.2017 plaintiff took the suit property on rent from defendant at the rate of Rs.5000/- per month and as such there exists a relationship of landlord and tenant between plaintiff and defendant. Said agreement was for a period of 11 months and after expiry of period of agreement, the period of tenancy was orally

extended. Plaintiff is running workshop of truck and bus body building in the suit property being its proprietor under the name and style of “Tejas Truck and Bus Body Builder”. From this business, plaintiff is earning livelihood as well as livelihood for her family. Except that, the plaintiff has no other source of income. Further employees of plaintiff are also earning livelihood for themselves and for their respective families. Plaintiff had been regularly paying the amount of rent of Rs.5000/- per month in respect of the suit property to the defendant and has paid the same to the defendant upto the month of February 2021. With regard to receipt of rent, defendant has not been issuing any receipt in respect to the plaintiff despite repeated requests/demands of the plaintiff in that regard. Plaintiff is also an income tax assessee and had also filed income tax returns of the suit property being its proprietor in the past years. The firm of plaintiff is also having GST number and registration number. The electric meter connection in the suit property is in the name of attorney of the plaintiff and plaintiff is also regularly paying the electricity charges of the electric meter connection in question to the electricity department. Defendant has no right or authority at all to dispossess the plaintiff from the suit property and to interfere or cause to interfere into the peaceful possession of the plaintiff over the same illegally, forcibly or in any other manner. Hence, the present suit.

3. Upon notice, defendant appeared and filed written statement taking preliminary objections that suit of plaintiff is not maintainable, plaintiff has not come to court with clean hands. It is stated that plaintiff too the shop in question on rent from defendant at the rate of Rs.5000/- per month on 22.05.2017 vide rent deed. The rent period started w.e.f

22.05.2017 to 22.04.2018. It was agreed that if the plaintiff wants to take the shop on further rent, then the rent will be increased 10 % every year. Thereafter, the tenancy was extended orally time to time and rate of rent was also extended and at present the rate of rent of the shop in question is agreed between the parties at the rate of Rs.12,000/- per month. Previously, the plaintiff used to pay the agreed rate of rent to defendant in cash and used to obtain the rent receipts from the defendant. But later on he started to pay the rent to the defendant through bank account. Previously, the defendant was having bank account in some other bank account and now the defendant is having bank account No. 50100423440532 opened on 23.06.2021 maintained with HDFC Bank Ltd branch Sirhind and plaintiff is paying the rent amount of Rs.12,000/- in this bank account to the defendant every month. The plaintiff has paid the rent amount at the rate of Rs.12,000/- per month upto the month of November, 2021 and the entries regarding the same have also been mentioned in the statement of the defendant. Moreover shop in question is required by the defendant for his personal use, bonafide necessity and occupation and defendant reserves his right to file ejectment petition against the plaintiff for ejectment of the plaintiff from the shop in question. The requirement/necessity of the defendant to occupy said rented shop in question is his personal and bonafide and defendant is going to file ejectment petition against the plaintiff. Plaintiff has filed the present suit only to harass and humiliate the defendant only to escape from his liability of due rent. Rest of the averments have been denied and prayed for dismissal of the suit.

4. Replication was not filed. From the pleadings of parties, following issues were framed:-

1. Whether the plaintiff is entitled to relief of permanent injunction, as prayed for?OPP
2. Whether the suit of the plaintiff is not maintainable?OPD
3. Whether plaintiff has concealed material facts from the court ?OPD
4. Whether plaintiff has no locus stand and cause of action to file the present suit?OPD
5. Relief.

5. In order to prove his case, the plaintiff did not lead any evidence despite availing several opportunities as many as 7 opportunities since 16.09.2022 including last opportunity. Therefore, finding no justification to further adjourn the case for plaintiff's evidence, same was closed by order.

6. On the other hand, ld. counsel for the defendants submitted that they do not want to give any evidence as plaintiff has failed to lead any evidence in the present case.

7. I have heard the arguments of learned counsel for both the parties and with their kind assistance have carefully perused the file. My findings on the above issues are as under:-

ISSUE NO. 1:-

(Whether the plaintiff is entitled to permanent injunction, as prayed for? OPP)

8. Onus to prove this issue was upon the plaintiff. As has been noted above, no evidence relating to this issue, has come on the file on behalf of the plaintiff. It was for the plaintiff to lead cogent and convincing evidence on the record but the plaintiff has failed to adduce an iota of evidence in support of her pleadings. The plaintiff himself did not step into

witness box. Therefore, in the absence of any cogent and convincing evidence, the plaintiff has failed to prove her case. As such, these issues have remained unproved. Accordingly these issues are decided against the plaintiff.

ISSUE NO. 2,3 & 4:-

(Whether the suit of the plaintiff is not maintainable?OPD)

(Whether plaintiff has concealed material facts from the court ?OPD)

(Whether plaintiff has no locus standi and cause of action to file the present suit?OPD)

9. Onus to prove these issues was upon the defendant. But these issues are neither agitated nor argued, nor any evidence has been produced on the file to prove these issue, hence these issues are decided against defendant.

ISSUE NO.6 (RELIEF):-

10. In view of my findings on the aforesaid issues, suit of the plaintiff fails and same is hereby dismissed under Order 17 Rule 3 CPC. Decree sheet be prepared. File be consigned to the record room, Fatehgarh Sahib.

Announced in open court:
Dated:-15.09.2023

Rakesh Kaushal,
JW-II

(Krishnanuja Mittal), PCS,
Addl.Civil Judge (Senior Division),
Fatehgarh Sahib.UID-PB0384

