



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-5448-2019 (O&M)

Date of Decision: 12.09.2025

Smt. Babita

.... Appellant

Versus

Smt. Chand Kaur

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. HN Sahu, Advocate for
Mr. Jitender Nara, Advocate for the appellant.

Mr. Vikrant Rana, Advocate for the respondent.

NIDHI GUPTA, J. (ORAL)

1. The appellant-defendant is in second appeal against the judgment and decree dated 28.03.2018, passed by the learned Additional District Judge, Charkhi Dadri, whereby the appeal filed by the respondent-plaintiff against the judgment and decree dated 10.12.2013, passed by the learned Civil Judge (Junior Division), Charkhi Dadri, was allowed.

2. Briefly stated, the respondent-plaintiff filed a suit for possession by way of ejectment of the appellant-defendant from the suit property. The learned trial Court vide judgment and decree dated 10.12.2013, partly decreed the suit of the plaintiff holding that the plaintiff is entitled to get the possession of the house in question but with a rider that the defendant will not be ejected from the same. Feeling aggrieved, the plaintiff had filed a Civil Appeal before the Lower Appellate Court, which has been allowed by the learned Additional



District Judge, Charkhi Dadri, vide impugned judgment and decree dated 28.03.2018, as per which suit of the plaintiff-respondent was decreed and the plaintiff was held entitled to get possession of the suit property without any such rider. Relevant para No. 18 of the judgment and decree dated 28.03.2018, reads as follows:-

“18. As a cumulative effect of the above discussion, the present judgment passed by the learned Trial Court, vide which, it has held plaintiff entitled to the possession of the house in question but with a rider that defendant will not be ejected from the suit property, is not sustainable in the eyes of law, and the same is hereby set aside. The present civil appeal is hereby allowed. The plaintiff is entitled to get the possession of the suit property without any such rider. It is hereby directed that the defendant shall hand over the vacant and peaceful possession of the suit property to the plaintiff. Parties to bear their own costs. Decree-sheet be drawn accordingly.

3. At the very outset, learned counsel for respondent submits that the present appeal has been rendered infructuous as, vide order dated 12.09.2022, the decree stands executed and possession of the suit property has been handed over to the respondent-plaintiff.

4. Copy of order dated 12.09.2022, handed over in Court by learned counsel for the respondent-plaintiff is taken on record. A copy thereof, has been handed over learned counsel for the appellant-defendant.

5. Learned counsel appearing for the appellant submits that he is only a proxy counsel and seeks time to instructions in the matter.

6. Heard.



7. In view of the facts noted above, the present second appeal stands **disposed of** as having been rendered **infructuous**, however, with liberty to the appellant to revive the same, in case, any cause of action survives in the present case within a period of 02 weeks from today.

8. Pending application(s), if any, shall also stand disposed of.

12.09.2025

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No