



2025:UHC:2757

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Appeal No.17 of 2025

Mayank Agarwal & Anr.

.....Appellants

Vs.

Krishna Mohan Agarwal

....Respondent

Present:-

Mr. M.S. Bhandari, Advocate for the appellants

Mr. Neeraj Garg, Advocate for the respondent

9th April, 2025

Hon'ble Vivek Bharti Sharma, J. (Oral)

There is a *suo-moto* report of Registrar (Judicial) in the file which indicates that inadvertently original decree has been supplied to the parties instead of certified copies, and the same original decree has been filed by the appellants with the instant appeal. Thus, it is prayed that the original copy of the decree be returned to the court concerned.

2. Request is accepted.

3. Let the original decree be sent back to the court concerned for placing the same in record of the Trial Court. The employee, who has committed this mistake, is admonished to be careful in future.

4. By means of present second appeal,



appellants/defendants seek to set-aside the judgment and decree dated 11.07.2023 passed by IV Additional Senior Civil Judge, Dehradun in Original Suit No.441/2017 and the judgment/order dated 29.11.2024 passed by Ist Additional District Judge, Dehradun in First Appeal No.98/2023.

5. Learned counsel for the appellants/defendants would submit that the respondent/plaintiff is father of appellant no.1/defendant no.1 and father-in-law of appellant no.2/defendant no.2; that, the respondent/plaintiff filed a suit for a decree of eviction and permanent injunction as well as mesne profit against the appellants/defendant nos.1 and 2 and defendant no.3, who was the wife of respondent/plaintiff, alleging that the defendants are merely the licensee in the suit property, which is a self acquired property of the respondent/plaintiff; that, the Trial Court vide impugned judgment/decreed dated 29.11.2014, decreed the suit of respondent/plaintiff; that, being aggrieved, appellants/defendants preferred first appeal, which also got dismissed vide judgment/order dated 11.07.2023. Hence, present second appeal.

6. Learned counsel for the appellants/defendants



would submit that defendant no.3, who was the mother of appellant/defendant no.1 also had the share in the suit property; that, there was also a dispute between the parties regarding the movable property for which respondent/plaintiff had filed a civil suit no.71/2021 with relief of 1/3rd share in the movable properties of his deceased wife i.e. mother of appellant/defendant no.1.

7. Per contra, learned counsel for respondent/plaintiff would submit that very unequivocal finding on the facts and evidence have been recorded by the Trial Court which has been affirmed in first appeal, thus, there is no scope for interference by this Court in second appeal.

Besides, he would submit that respondent/plaintiff was the absolute owner of the suit property and the appellants/defendants were residing in the suit property only as licensee. He would further submit that the defendant no.3 had appeared in the trial court but she did not file her written statement nor she led any evidence to show that she contributed in the funds for purchase of suit property.

8. In reply, learned counsel for the



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appellants/defendants would fairly concede that registered sale deed was in the name of respondent/plaintiff, as also that there was no written statement filed by defendant no.3/mother to claim that she had invested in funds in construction of suit property or that she contributed in the consideration paid for purchase of the suit property.

9. Having considered the above submissions and after going through the impugned judgments and orders passed by the trial court and the first appellate court, in the firm opinion of this Court, no substantial question of law arises for consideration in this appeal.

10. Accordingly, present second appeal is dismissed *in limine*.

(Vivek Bharti Sharma, J.)
09.04.2025

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