

In the High Court of Punjab and Haryana at Chandigarh

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R.S.A. No.2495 of 2012 (O&M)

.....

Date of decision:14.5.2015

Nirmal Kaur

.....Appellant

v.

District Manager, HOUSEFED

.....Respondent

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Rakesh Kumar, Advocate for the appellant.

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Inderjit Singh, J.

This regular second appeal has been filed by Nirmal Kaur-appellant/plaintiff against District Manager, HOUSEFED-respondent/defendant challenging the impugned judgment and decree dated 15.2.2011 passed by the learned Civil Judge (Senior Division), Kapurthala and the judgment and decree dated 8.2.2012 passed by the learned Additional District Judge, Kapurthala in appeal.

The brief facts of the case are that Nirmal Kaur-plaintiff filed suit against District Manager, Housefed for permanent injunction restraining the defendant from dispossessing her illegally, forcibly from the 4 Marlas house, which was earlier owned by Bhola son of Mohan Lal, who executed general power of attorney on 10.7.1998 in favour of the plaintiff. The plaintiff stated that she has purchased this house on the basis of general power of attorney and she is in peaceful continuous possession of the house.

On the other hand, the case of the defendant-District Manager, Housefed in the written statement is that Bhola obtained a loan from the Housefed and has failed to make the payment and the Housefed is to recover that amount and award dated 3.4.2002 has already been passed against Bhola. The suit has been filed on the basis of false and concocted story. The defendant is only going to get the award executed against Bhola, who is actual owner of the suit property.

The plaintiff examined herself as PW-1, Balbir Kaur as PW-2, Joginder Singh as PW-3 and Karma as PW-4 and closed her evidence.

On the other hand, the defendant has examined Harbans Lal, Inspecting Officer as DW-1 and closed his evidence.

On the basis of evidence, learned Civil Judge (Senior Division), Kapurthala, dismissed the suit of the plaintiff. Aggrieved against the judgment and decree dated 15.2.2011, an appeal has been filed by the plaintiff Nirmal Kaur against District Manager, HOUSEFED, which was also dismissed vide judgment and decree dated 8.2.2012 passed by the Additional District Judge, Kapurthala. Aggrieved against these judgments and decrees passed by the Courts below, the present regular second appeal has been filed.

At the time of arguments, learned counsel for the appellant argued that the judgments and decrees passed by the Courts below are incorrect and not as per evidence and law.

I have heard learned counsel for the appellant and have gone through the record.

From the evidence on record, I find that as per the case of plaintiff, Bhola is stated to be owner of the house measuring 4 Marlas and the plaintiff is alleging that she had purchased the house on the basis of general power of attorney. It is admitted fact that no sale deed has been executed in favour of the plaintiff so far. Therefore, as per law, Bhola son of Mohan Lal is still owner of the house. The case of the defendant is that as the award dated 3.4.2002 regarding the loan amount has already been passed against Bhola and the suit property is mortgaged with the defendant-Housefed by Bhola-the actual owner of the suit property, therefore, the defendant is only going to get the award executed against Bhola, who is the actual owner of the suit property, which means the defendant is not threatening to interfere in the possession of the house illegally or forcibly, but taking the action to execute the award dated 3.4.2002 as per law. Therefore, the findings given by the learned Civil Judge (Senior Division), Kapurthala, is as per evidence on record while appreciating the evidence in right perspective. The findings given by the learned Additional District Judge, Kapurthala, upholding the judgment and decree of the learned Civil Judge (Senior Division) are correct and as per law and do not require any interference from this Court and the same are upheld. Otherwise also, no substantial question of law arises in this regular second appeal.

Finding no merit in this regular second appeal, the same is dismissed.

May 14, 2015.

(Inderjit Singh)
Judge

hsp