

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

RSA No.3177 of 2013 (O&M)

Date of decision : 24.12.2015

Sunita Rani

...Appellant

Versus

Sushil Kumari

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. S.S. Dinarpur, Advocate for the appellant.

Mr. V.B. Aggarwal, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The appellant-defendant is in Regular Second Appeal against the concurrent findings of facts and law, whereby suit for mandatory injunction filed by the respondent-plaintiff/mother-in-law against the appellant-defendant/daughter-in-law seeking vacant possession of one room, kitchen, store, latrine, bathroom, verandah, i.e., a portion of house No.8363/5 (Old), A.M.C. No.1063/B-IV Outer Zind House, Railway Road, Ambala City, has been decreed.

Mr. S.S. Dinarpur, learned counsel appearing on behalf of the appellant-defendant submits that suit was not maintainable as after

marriage, appellant was brought in the house of the plaintiff and had been deserted and it is the duty of her in-laws to maintain her properly. Son has also been born in the house. The suit for permanent injunction was not maintainable and only remedy was to file suit for mandatory injunction. Petition under Section 125 of Code of Criminal Procedure is filed where execution application is pending and this fact has also been not noticed by both the Courts below and, thus, there is illegality and perversity in the impugned judgments and decrees.

Mr. V.B. Aggarwal, learned counsel appearing on behalf of respondent-plaintiff submits that the judgments and decrees of the Courts below have been executed and possession of the property sought in the suit, has been delivered, de hors of the fact that the status of the appellant-defendant was of a licensee, which had been revoked and suit for mandatory injunction was filed.

I have heard learned counsel for the parties and appraised the paper book.

The status of the son or daughter-in-law in house owned by father and father-in-law, mother and mother-in-law is that of a licensee. In case, licensor does not want the licensee in the house, he can always seek possession by filing the suit for mandatory injunction. Precisely, this has happened in the present case. The appellant-defendant has not been able to prove that the property was purchased out of the funds of the Hindu Family property and, therefore, respondent-plaintiff could not be held to be owner. The plea that respondent-plaintiff admitted that the construction of the house was raised out of fund provided by the husband pales into

insignificance as relationship of licensee and licensor does not entail into the determination of title of licensee. Licensor may not be the owner. Even otherwise providing funds by husband for purchase of house in the name of wife and raising of construction is permissible as per the provision of the Benami Transaction (Prohibition) Act, 1988.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by the Courts below, particularly when the judgments and decrees of the Courts below have been executed, much less, no substantial question of law arises for determination by this Court.

Appeal stands dismissed.

24.12.2015

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**(AMIT RAWAL)
JUDGE**