

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 3860 of 2013 (O&M)
Date of decision: 6.7.2015

Usha Rani

.. Appellant

v.

Adish Bawa and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. B. D. Sharma, Advocate for the appellant.

...

Rajesh Bindal J.

The defendant is before this court against concurrent findings of fact recorded by both the courts below, whereby the suit filed by Raghbir Dass, predecessor-in-interest of the respondents for permanent injunction, was decreed.

In the case in hand, the suit was filed claiming that the property in question was rented out to Sham Lal (deceased), father of the appellant. After his death, the appellant stepped into his shoes. She is a tenant on the property @ ₹ 100/- per month. The suit was filed seeking permanent injunction restraining the appellant-defendant from raising any type of construction on the suit property. The same was decreed by the trial court. First Appellate Court upheld the judgment and decree of the trial court.

The appellant in the present case sought to take a plea of adverse possession, however, the same was held to be not maintainable for the reason that she denied ownership of Raghbir Dass, predecessor-in-interest of the respondents. A plea of adverse possession can only be taken against the true owner and none else and the same was rightly declined by

the courts below. The appellant did not plead or prove that how, when and in what capacity, she came in possession of the property. The pleadings and evidence to that regard were totally vague.

A plea was sought to be taken that in case the appellant was a tenant, her eviction could be sought instead of filing a suit for permanent injunction was also considered by the courts below and finding no merit therein, the same was declined, as suit for injunction is also efficacious remedy so as to restrain the opposite party from changing the nature of the property by making it fit for human habitation by carrying out repairs.

With the aforesaid material on record, I do not find any merit in the present appeal. No substantial question of law arises in the present appeal. The same is, accordingly, dismissed. Consequently, the accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

6.7.2015
mk