

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

112

CM No.9146-C of 2015 and
Regular Second Appeal No.3731 of 2015

Date of Decision: August 10, 2015

Rajinder Kumar Son of Sh. Ram Krishan R/o House No.2641 Sector 40-C,
Chandigarh (UT)

...Appellant

Versus

Ram Krishan Son of Late Sh. Ganga Ram R/o House No.2641 Sector 40-C,
Chandigarh (UT)

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Satish Goel, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The present appeal has been filed by the appellant-defendant, who is son of the respondent-plaintiff, against the judgment and decree dated 26.05.2015 passed by the First Appellate Court, whereby the decree of mandatory injunction directing the appellant-defendant to hand over vacant possession of the house in question by the trial Court, stands affirmed.

The questions of law, which are sought to be raised in the present appeal, are mentioned in para 11 of the memorandum of appeal, which read as follows:-

- “i) Whether the both the learned lower court below have misread, misconstrued and misdirected the evidence available on the record while passing the impugned judgment and decree?*
- ii) Whether judgments and decrees passed by both the learned lower court below are arbitrary, null and void, without jurisdiction and wholly unjustified?*
- iii) Whether judgments and decrees passed by both the learned courts below are against law and against the admitted facts?”*

None of the grounds, which have been raised in the appeal, can be termed as substantial question of law, which requires adjudication by this Court, specially in the light of the judgments, which have been passed by the Courts below, where concurrent findings have been recorded against the appellant-defendant to the effect that the house in question was allotted to the respondent-plaintiff in the year 1980 when the appellant was only 15 years old at the time of shifting into the house.

Learned counsel for the appellant could not dispute the fact that nothing has been produced on record before the trial Court, which could show that the construction of house in dispute was raised from the funds generated from the Hindu Family Funds nor has it come on record as to any source of income of the appellant-defendant. There being nothing produced on record, which would show that any contribution has been made by the appellant-defendant either in purchasing the plot in question or construction of the house, the respondent-plaintiff is the absolute owner of the house. The appellant-defendant was only a licensee and being a son could reside in the said house with the consent and permission of respondent-plaintiff. The Courts below have rightly come to the conclusion that there are strained relations between the father and son and, therefore, on the basis of the above facts the suit of the respondent-plaintiff has been decreed.

The appeal, being devoid of merit, stands dismissed.

In the light of the dismissal of the appeal, the application for stay i.e. CM No.9146-C of 2015, also stands dismissed.

August 10, 2015
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE