

RSA No. 3817 of 2015(O&M)
Date of Decision: October 5, 2015

Rameshwar Narwal @ Naharwal and another
..... Appellants

Versus

Amit Vashisht and others
..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. S.K.S.Bedi, Advocate
for the appellants.

Amit Rawal, J (Oral)

The appellants-plaintiffs are in Regular Second Appeal against the concurrent finding whereby the suit claiming viz-a-viz ownership of H.No.42 Sector 11, Panchkula has been dismissed.

Learned counsel for the appellants-plaintiffs submits that they purchased the aforementioned house and had contributed a considerable amount and since they were falling short surety of the full consideration, sought help of Shvinder Narawal, who, is none else but their brother. During the pendency of the aforementioned suit Shvinder Narawal vide sale deed dated 23.1.2004 Ex. DW1/4 sold the house to Amit Vashist. Both the courts below have failed to notice that the appellants had considerably contributed in purchase of the house, therefore, Shvinder Narawal could not get exclusive title in the property, much less possess the same.

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

The plea set up by the appellants-plaintiffs, in my

view is that of Benami no doubt the relationship between the two brothers is fiduciary in nature, but in order to prove plea of benami the appellants-plaintiffs were required to prove the same by leading direct and cogent evidence of the alleged contribution. In essence, they were to prove that Shvinder Narawal was none else but name lender. The appellants failed to lead evidence to prove the same.

In my view, both the courts below have rightly dismissed the suit as the aforementioned evidence was conspicuously wanting. I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 5, 2015
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