

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1882 of 2014

Date of decision: 19.01.2015

Tahir and others

... Appellants

Vs.

Hamid and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surinder Dagar, Advocate
for the appellants.

AMIT RAWAL, J. (ORAL)

This is a Regular Second Appeal at the instance of the defendant-appellants against the judgment and decree of both the Courts below whereby the suit for possession and claim for permanent injunction from changing the nature of the suit property in any manner and from raising any sort of construction thereon has been decreed.

Learned counsel appearing on behalf of the appellants-defendants contended that both the Courts below have committed an illegality and perversity. Admittedly, one of the plaintiff namely Hasan Mohd when appeared in the witness-box admitted in his cross-examination that the premises were let out on rent and, therefore, the suit, ex facie, for possession was not maintainable and the remedy, if any, for the plaintiff was seek eviction under rent law.

Learned counsel for the appellant further submits that both the Courts below have not dealt with the stand taken by the appellants-defendants in the written statement that they had been in possession of the suit property for the last

44 years and have raised the construction which was in knowledge of plaintiff. He further submits that since one of the plaintiff admitted the factum that premises were given on rent, therefore, the plea of licensee was not tenable. The arguments of learned counsel for the appellants sans merit as the appellants-defendants in the written statement, have given a very vague and evasive denial. This fact has been noticed by the Courts below.

Learned counsel for the appellants further submits that preceding to filing of the suit, the respondents-plaintiffs did not send the notice of termination of licence. Filing of the suit itself means termination of the licence. Therefore, there is no merit in the arguments of counsel for the appellants.

In the absence of specific denial in the written statement, all the pleas made in the plaint are deemed to be admitted. The respondents-plaintiffs proved ownership of the residential house i.e. premises in Kuwait/Khatoni No.39/39, Khasra No.77/1 (2-12) measuring 2 kanals 2 marlas as depicted in the site plan, situated in abadi deh and revenue estate of Village Rojka Meo, Tehsil Nuh, District Mewat. The isolated statement of the plaintiff surfaced in the cross-examination would not take away the right of the plaintiffs to seek the possession, once the appellants-defendants have been found to be in illegal possession of the suit property. The appellants-defendants have not able to prove any ownership of the property except the identity card and the ration card which does not confer any title on suit property. The respondents-plaintiffs has taken a recourse to the law even if the appellants-defendants have been found to be in settled possession of the suit property. Both the Courts below have rendered the findings based on the appreciation of oral as well as documentary evidence.

No fault can be found with the findings rendered by both the Courts below. There is no illegality and perversity in the findings.

No substantial question of law arises for the adjudication of the present appeal.

According, the appeal is dismissed.

[AMIT RAWAL]
JUDGE

19.01.2015

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