IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No.1259 of 2016 (O&M)
Date of decision:29.03.2016

Seema Dahiya and another ... Appellants

Vs.

Col. Dharampal (Retd.) and another ... Respondents

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. Vaneet Soni, Advocate
for the appellants.

Mr. Surender Dhull, Advocate
for the caveator/respondents.

AMIT RAWAL J. (Oral)

The appellant-defendants are aggrieved of the concurrent findings of facts and law, whereby, suit for handing over the possession of entire house No.296, Sector 17-A, Gurgaon, has been decreed.

Mr. Vaneet Soni, learned counsel appearing on behalf of the appellant-defendants submits that plaintiff has miserably failed to prove the status of the defendants as licensee. No doubt, the respondent-plaintiff is father in law. He further submits that owing to

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ill luck, husband and wife are in litigation and out of their wed-lock, one marriageable daughter is there. There is no other accommodation available for living. There are civil and criminal cases filed at the instance of the parties. In case, the judgments and decrees are not stayed/set aside, there is no other residential accommodation to live in. On the date of institution of suit, there was stay, therefore, remedy chosen by the plaintiff to circumvent in those proceedings, thus, urges this Court to formulate the substantial questions of law as culled out in the grounds of appeal.

Mr. Surender Dhull, learned counsel appearing on behalf of the caveator/respondents submits that it is self acquired property of the respondent-plaintiff which has given to his son and wife, who were staying in the demised premises as licensees. Though the matrimonial dispute is in existence between husband and wife, the fact remains that respondent-plaintiff does not want to continue to live, therefore, seek revocation of the licence by filing the suit for vacation of the premises in view of the law laid by the Hon'ble Supreme Court in **Sant Lal Jain vs. Avtar Singh 1985 AIR (SC) 857.** Since there is relationship between the parties, have not claimed any mesne profits, thus, urges this Court for upholding the impugned judgments and decrees of the Courts below.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below and of the view that status of the appellant-defendants is of a

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licensee, even if she is daughter in law of plaintiff. The husband and wife have failed to arrive at an amicable settlement. The facts and circumstances of the present case reveal that on revocation of the licence, the respondent-plaintiff had instituted a suit for possession. The aforementioned view of mine is supported by the judgment of the Hon'ble Supreme Court in **Sant Lal Jain's case (supra),** as well as, judgment of the High Court of Jammu and Kashmir in **Th. Milka Singh and others vs. Th. Diana and others 1964 AIR (J&K) 99** to contend that co-owner cannot be branded as a licensee. No ground has been made out for setting aside of the aforementioned findings as no substantial question of law arises for adjudication of the present appeal.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 29, 2016
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