

RSA No. 2438 of 2016 (O&M)

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

RSA No. 2438 of 2016 (O&M)

Date of Decision: May 16, 2016

Gian Singh

...Appellant

Versus

Mohindo

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Nakul Sharma, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral):

CM No.6478-C of 2016

Application is allowed, as prayed for.

Annexures A-1 to A-4 are taken on record, subject to just
exceptions.

RSA No. 2438 of 2016

Challenge in this appeal is to the judgment and decree dated 27.01.2016 passed by the Additional District Judge, Ferozepur, whereby, the appeal preferred by the respondent-plaintiff against the judgment and decree dated 16.10.2014 passed by the Additional Civil Judge (Senior Division), Ferozepur, whereby, the suit of the respondent-plaintiff for possession of a house bearing No.B-II-2A, as detailed in the head note, situated in Basti Bagh Wali, Ferozepur City, was dismissed, has been allowed.

It is the contention of the learned counsel for the appellant that the judgment and decree as passed by the trial Court was based upon proper appreciation of the pleadings and the evidence brought on record. He asserts that in the cross-examination, the respondent-plaintiff has admitted that the sale-deed (Ex.D-1) in favour of the appellant executed by Dayal Kaur who was in possession of the premises on 08.06.1998, establishes the ownership of the appellant-defendant. Further, in her cross-examination, she has also admitted that she had not brought any document or sale deed which would show that the house was owned by the vendor of the predecessor-in-interest of the respondent-plaintiff. He, thus, contends that the judgment and decree passed by the learned Lower Appellate Court cannot sustain.

I have considered the submissions made by the learned counsel for the appellant and with his able assistance, have gone through the impugned judgment.

A perusal of the impugned judgment would show that the suit property which is a house, was previously owned by one Jagat Singh. From this Jagat Singh, father of the respondent-plaintiff, namely, Bahal Singh purchased the said house vide registered sale deed dated 04.01.1962. After the death of Bahal Singh (father) and Kartar Kaur, the mother of the respondent-plaintiff, respondent-plaintiff succeeded to the property. Although she had asserted herself to be in possession of the premises till her dispossession by

the appellant in the year 2008 when she states that she had gone out and the possession was taken by the appellant forcibly and therefore, the suit for possession was filed by her, has not been established rather as per her admission in the cross-examination, it is apparent that the possession was in the hands of Dayal Kaur and her husband Shingara Singh, which was on the basis of a sale deed dated 08.06.1998 handed over to the appellant which factum even if accepted would not confer any title upon the appellant-defendant since except for this sale deed, nothing has been brought on record which would indicate as to who was the owner in possession of the premises prior to Dayal Kaur vendor of the appellant.

That apart, in the cross-examination, both the witnesses who had appeared on behalf of the appellant-defendant, have admitted that the original owner was Jagat Singh and thereafter Bahal Singh had purchases the house in the year 1962. The title having been admitted of the predecessor-in-interest of the respondent-plaintiff, it is apparent from the admission of DW-2 i.e. Chiman Singh about the ownership of Kartar Kaur, widow of Bahal Singh, of the suit property and that she had never sold the property either to Dayal Kaur, the vendor of the appellant-defendant or direct to Gian Singh. In the light of this admission in the cross-examination, the ownership stands established of the respondent-plaintiff. The findings, thus, recorded by the Lower Appellate Court in this impugned judgment dated 27.01.2016 cannot be faulted with.

RSA No. 2438 of 2016 (O&M)

The evidence and the pleadings have rightly been appreciated and the conclusions drawn on its basis therefore, cannot be said to be not in accordance with law or vitiated in any manner.

No other point has been raised or argued by the learned counsel for the parties.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the appeal, the same stands dismissed.

CM No.6479-C of 2016

In view of the order passed in the main appeal, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

May 16, 2016
Harish