

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

RSA-504 of 2013 (O&M)

Date of decision: 22.01.2016

Uttam Singh

...Appellant

Versus

Avtar Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Vaibhav Sehgal, Advocate for the appellant.

Jitendra Chauhan, J. (Oral)

By way of the present appeal, the defendant/appellant has assailed the judgment and decree dated 10.12.2012, passed by Addl. District Judge, Ludhiana, upholding the judgment and decree dated 12.03.2012, passed by Civil Judge (Jr. Divn.), Ludhiana, whereby the suit for mandatory injunction filed by the plaintiff/respondent was decreed.

It is contended by learned counsel for the appellant that both the Courts below have gravely erred in not appreciating the fact that the respondent/plaintiff had pleaded the appellant to be a licensee. The respondent/plaintiff had failed to prove on record the sale deed by virtue of which he claimed to be the owner of the suit property but both the Courts below have not

considered this aspect of the matter. The learned counsel further contends that in fact the appellant had purchased the suit property in the name of his father i.e., the respondent with his own funds.

I have heard the contentions of learned counsel for the appellant.

This unfortunate dispute is inter se the father and a disobedient son. The appellant, Uttam Singh is son of the respondent Avtar Singh. It is not in dispute that the appellant is in exclusive possession over one room along with kitchen and bathroom on first floor of the suit property. The appellant had alleged that the suit property was purchased by him in his father's name. However, there is nothing on record to substantiate his claim. The plaintiff/respondent had produced the copy of sale deed Ex.P1, which shows that the father purchased the suit property from its earlier owner. Further, the appellant in his cross examination had admitted that his father had purchased the property in which he had been residing since 1990. At the time of execution of sale deed of the suit property i.e., on 27.07.1990, the appellant had no source of income as he was a student, therefore, both the Courts below have rightly rejected the plea of the appellant that the suit property was purchased by

him from his own funds. Once the licence has been revoked by the father, the son have no right to use the property. He shall have to immediately stop using the property. The father, a patient of heart disease alleged that his son-defendant beats up him and former's mother. If that is so, the son is not entitled to any relief from Court. The plaintiff father is so generous that he has not claimed any penny from his son for his illegal use and occupation of the property in this civil suit.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. These are pure findings of fact. No question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

22.01.2016

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(JITENDRA CHAUHAN)
JUDGE