

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

RSA No.3342 of 2016 (O&M)

Date of Decision.20.10.2016

Amarjit Singh son of Gurdial Singh

.....Appellant

Vs

Avtar Singh son of Chanan Singh

.....Respondent

Present: Mr. K.R. Dhawan, Advocate  
for the appellant.

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

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**AMIT RAWAL J. (ORAL)**

The appellant-defendant is aggrieved of the concurrent finding of fact whereby the suit of the respondent-plaintiff for redemption of the shop shown by red colour and letters ABCD in the site plan situated within the municipal limits, Zira, Tehsil Zira, District Ferozepur, has been decreed by both the Courts below.

Mr. Dhawan, learned counsel appearing for the appellant submits that the mortgage deeds dated 17.06.1991 and 01.10.1999 for a sum of ₹15,000/- and ₹45,000/- respectively were only a camouflage as the possession of the appellant was of a tenant. The account books of the shop showing the payment of rent have been produced on record but they were treated only marked documents. This has resulted into decretal of the suit. The marked documents Ex.D5 and D6, copy of form F and B, Mark D7 and D8 have also been brought on record. Had the Courts below considered aforementioned documents, they could form a different opinion, other than the arrived one, thus, urges this Court for setting aside the judgments under challenge by formulating the substantial questions of law as drawn in the

I have heard learned counsel for the appellant, appraised the paper book and of the view that both the mortgage deeds are registered documents and therefore, it cannot be said to be a camouflage. Even otherwise, the account books/income tax returns had not been proved in accordance with law. It could have been self-serving statement submitted to the income tax authorities and cannot entail into relationship of landlord and tenant. Even the limitation part cannot be looked into in view of the law laid down by the Hon'ble Supreme Court in *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others* (2013) 12 SCC 649.

For the reasons aforementioned, I do not intend to differ with the findings rendered by the Courts below as the same are based upon the correct appreciation of documentary as well as oral evidence, much less, no substantial question of law arises for consideration. The second appeal is dismissed.

(AMIT RAWAL)  
JUDGE

October 20, 2016

Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No