

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4823 of 2016 (O&M)
Date of Decision : 19.09.2016

Kewal Singh

....Appellant

Versus

Paramjit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Salil Sagar, Senior Advocate with
Mr. Sankalp Sagar, Advocate
for the appellant.

Surinder Gupta, J.

This is appeal against concurrent judgments of Courts below decreeing the suit filed by plaintiff-respondent-Paramjit Singh seeking the relief of mandatory injunction directing the defendant-appellant to vacate one room and one toilet on the ground floor of property No. 429/12, Krishna Nagar near Adarsh Nagar, Jalandhar.

2. In later part of the judgment parties will be referred as 'plaintiff' and 'defendant' as per civil suit.

3. Plea of plaintiff is that the suit property was earlier owned by Bakshish Kaur, who transferred part of the same to plaintiff. A room and one toilet on the ground floor was given to the defendant with the consent of plaintiff as licensee on a monthly licence fee of ₹60/-. The defendant was inducted as a licensee in the year 1981-82 as plaintiff and defendant were close friends and at that time he was studying in Sport College, Jalandhar. After completion of studies, the defendant continued to stay in the disputed portion with the consent of plaintiff, Bakshish Kaur and Malkit Singh. To grab the portion in his possession as licensee, the defendant filed a civil suit

titled “Kewal Singh vs. Paramjit Singh”, which Bakshish Kaur and Malkit Singh are contesting. The licence of defendant was terminated vide legal notice dated 06.08.2010 but he failed to vacate and hand-over the possession of room and toilet in question to plaintiff, hence this suit.

4. The defendant contested claim of plaintiff with the plea that property in question and other properties were earlier owned by Smt. Partap Kaur wife of Subedar Bhola Singh, who died on 16.04.1984. Partap Kaur had one son, namely, Harjanak Singh and two daughters, namely, Bakshish Kaur and Balwant Kaur. Harjanak Singh was not having cordial relations with Partap Kaur till her death and resided separately from her mother. The defendant had been living with Partap Kaur since childhood and was brought up by her like her son. She was treating him as her son. The defendant was also serving Partap Kaur like his mother. During life time of Partap Kaur, her daughter Bakshish Kaur started residing in portion of the property alongwith her other family members. Partap Kaur had given two rooms on ground floor exclusively to the defendant while possession of some of the rooms and shops on ground floor was with Bakshish Kaur. It was further averred that possession of the defendant over suit property for the last more than 26/27 years was uninterrupted and without objection from anyone. It was open and hostile against the title of all including children of Partap Kaur.

5. Both the Courts below concluded that possession of the defendant over suit property was permissive, as such, is not adverse against true owners and he was ordered to be ejected.

6. Learned counsel for the appellant has argued that possession of the appellant was not as a licensee but as a relative of Partap Kaur, who

treated him like her son. The appellant has challenged title of plaintiff over suit property on the basis of transfer deed dated 22.02.2010, executed by Bakshish Kaur with the plea that Bakshish Kaur had claimed title over suit property as per registered Will dated 10.02.1984, allegedly executed by Partap Kaur but that Will was not duly proved. He has argued that once Will of Partap Kaur is ignored, Bakshish Kaur is left with no exclusive right, title or interest over the suit property and the transfer deed executed by her loses its sanctity and plaintiff is left with no *locus standi* to file the present suit.

7. On giving a careful thought to submissions of learned counsel for the appellant, I find that his submissions are devoid of any merit.

8. As per averment of appellant himself, his possession over the suit property is as a licensee as he has not claimed or proved any other status of his possession. Being a third person, he has no right, title or interest to challenge the Will executed by Partap Kaur. It is a registered Will and mere production of this Will is suffice to prove in this case that Bakshish Kaur has inherited the suit property from Partap Kaur under this Will and has further executed the transfer deed in favour of her son Paramjit Singh. Status of the defendant remains as that of a licensee even if his plea that he was given possession of suit property as Partap Kaur was treating him like her son, is accepted.

9. No other argument has been advanced by learned counsel for the appellant.

10. As a sequel of my discussion above, I find no legal or factual infirmity in judgments passed by both the Courts below calling for any interference. No substantial question of law, requiring determination, arises

in this appeal, which has no merit.

Dismissed.

September 19, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No