

RSA No.3737 of 2015 (O&M)

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

RSA No.3737 of 2015 (O&M)

Date of Decision: March 30, 2016

Rehmuddin

...Appellant

Versus

Ali Mohammad & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Altaf Hussain, Advocate
for the appellant.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Ferozepur, dated 24.02.2015, whereby, the suit for declaration with permanent injunction filed by the respondent-plaintiff-Ali Mohammad, praying for declaration to the effect that the Leave Licence Agreement dated 21.11.2007 executed in favour of defendant No.2-Bharti Infractel Limited, by the appellant-defendant No.1-Rehamuddin is wrong, illegal, null, void, nonest and not binding upon the right, title or interest of the respondent-plaintiff as defendant No.1 has no legal right to execute the same without getting the land partitioned which is their joint ownership, has been decreed, appeal against which preferred by the appellant-defendant No.1 has been dismissed by the

Additional District Judge, Mewat, on 20.05.2015.

It is the contention of the learned counsel for the appellant that the appellant had purchased the suit property in the year 1981 and therefore, he was the exclusive owner of the suit land. He further contends that the judgments and decree passed by the Courts below cannot be sustained as the appellant had been in possession of the suit property and accordingly, had entered into a Leave Licence Agreement dated 21.11.2007 in favour of respondent-defendant No.2-Bharti Infractel Limited. Had there been anything in favour of the respondent-plaintiff, he would have objected to the construction of the tower and now, at this belated stage, he has come forth and filed the present suit. He, thus, contends that the judgments and decree under challenge cannot sustain and deserve to be set aside.

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

The contention as raised by the counsel for the appellant that the appellant was the exclusive owner of the suit property, is without any basis or justification as no written statement was filed by the appellant-defendant No.1 before the trial Court and in fact, his defence was struck off vide order dated 04.10.2012. In any case, the pleadings of the respondent No.1-plaintiff and respondent-defendant No.2 as also the evidence led by them, have been taken into consideration by the Courts below and after appreciating the same,

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have given well-reasoned and justified judgments. Even each and every aspect has been properly appreciated and the documents have also been considered in the right perspective. The findings, thus, recorded by the Courts below cannot be faulted with.

No other point has been urged or argued by the learned counsel for the appellant.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below being in accordance with the pleadings and the evidence brought on record and further based upon the settled principles of law which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

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.9167-C of 2015

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

Disposed of as such.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

March 30, 2016