

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

RSA No.3951 of 2015 (O&M)

Date of decision:10.08.2016

Tarlochan Singh

...Appellant

Vs.

Amrit Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajiv Joshi, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, suit at the instance of the mother seeking mandatory injunction for possession of the property by revoking the licence, has been dismissed.

Mr. Rajiv Joshi, learned counsel appearing on behalf of the appellant submits that the parties have tried their luck before the Medication and Conciliation Centre of this Court but the mediation failed. He further submits that status of the son in the house of father or mother cannot be of licensee as he has right in the property being ancestral in nature. The son cannot be branded as licensee. The remedy, if any, for the respondent-plaintiff lies elsewhere. Both the Courts below have not noticed the aforementioned fact, much less, categoric stand taken in the written statement and thus, urges this Court for setting aside the findings rendered

by both the Courts below. He further submits that there is no averment in the pleadings regarding the maintainability of the suit for mandatory injunction as only remedy is to seek possession and only suit for possession is maintainable.

I have heard learned counsel for the appellant and appraised the paper book and of the view that suit is for mandatory injunction seeking possession of the property in possession of the son by father or mother, but in the instant case, the plaintiff is mother and the status of son is not less than of a licensee. The aforementioned view of mine is supported by a Division Bench judgment of this Court rendered in **Gurpeet Singh vs. State of Punjab and others 2016 (1) R.C.R.(Civil) 324.**

I am not in agreement with the aforesaid contention of Mr.Rajiv qua maintainability of the suit as son is always under the obligation of the parents when there is breach of contract, provisions of Section 39 of the Specific Relief Act can always be pressed into.

The license can be revoked in the suit for mandatory injunction. If at all the mother has not given the property to the son, the son should not contest the same, particularly when the property is not ancestral.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 10, 2016
savita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No