

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.6215 of 2016 (O&M)

Date of Decision: December 19, 2016

Surjit Kaur

...Appellant

Versus

Gurbachan Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Ms.Amandeep Soni, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-defendant No.1 is aggrieved of the judgments and decrees of the Courts below, whereby the suit seeking the following relief has been decreed:-

“Suit for Mandatory Injunction directing the defendants to hand over the vacant, physical and peaceful possession of one room of the house no.167-A, measuring 5 marlas, situated at Dalla Patti, village & P.O. Jandu Singha, Tehsil & District Jalandhar, fully shown red in colour in the site plan attached and bounded as under:-

East: Property of Darbara Singh and Rasta

West: Property of Carpenter Gian Singh

North: Property of Chucha

South: Property of Darshan Singh

after removing their belongings from the house in dispute to the plaintiff.”

Ms.Amandeep Soni, learned counsel for the appellant-defendant No.1 submits that the appellant is daughter-in-law of respondent

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No.1 and wife of respondent No.2 with whom she is not having cordial relations. The story to seek ejectment by branding status of a licensee was coined by Gurbachan Singh and Gurdip Singh, father and son. The plaintiff had categorically admitted that the status of the appellant-defendant is not that of a licensee. The Court ought not to have entertained the suit purportedly filed under Section 39 of the Specific Relief Act. All these factors have not been taken care of and, thus, there is gross illegality and perversity.

I have heard the learned counsel for the appellant-defendant No.1, appraised the paper book and of the view that the status of the wife, even if there is a strained relationship with the husband, in view of the latest and previous law would be of a licensee. Until and unless the property at the hands of Gurbachan Singh remains the ancestral, the children would be the 4th generation. It is not the case in hand. In a case where such a relief has been sought, the suit has to be decreed and rightly so, the same has been decreed.

For the foregoing reasons, I do not intend to differ with the concurrent findings of the Courts below, which are based on appreciation of oral and documentary evidence. No case for interference is made out.

Appeal stands dismissed.

December 19, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No