

RSA No.3292 of 2015 (O&M)

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

RSA No.3292 of 2015 (O&M)

Date of decision: 04.07.2017

Smt. Sushila Devi

.....Appellant

versus

Rajender Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. S.K. Yadav, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

This Regular Second Appeal has been preferred by appellant/defendant No.1 for setting aside the judgment and decree dated 11.05.2012 passed by the trial Court and the judgment dated 16.02.2015 passed by learned Additional District Judge, Narnaul.

Briefly stated, respondent No.1/plaintiff, claiming himself to be in possession over the suit land as “*gair marusi*” tenant, filed a suit for perpetual injunction against appellant and respondent No.2/defendants on the ground that they had no concern whatsoever with the same, but despite that they were adamant to dispossess him from the suit land.

In their written statement, appellant and her co-defendant Anand Parkash (respondent No.2 herein) raising preliminary objections regarding maintainability, locus standi, estoppel etc., on merits, pleaded that father of respondent No.1/plaintiff, namely, Umrao Singh, was a co-sharer in the suit land, therefore, he, being, a co-sharer could not be in possession of the suit land as “*gair marusi*” tenant after the death of his father.

Claiming their title and possession over the suit land vide registered sale

RSA No.3292 of 2015 (O&M)

deed No.1753, they sought dismissal of the suit.

After framing issues, both the parties led evidence to their satisfaction. Learned trial Court, after hearing both the parties, decreed the suit in favour of respondent No.1/plaintiff with costs vide impugned judgment and decree dated 11.05.2012, thereby restraining appellant/defendant No.1 and her co-defendant Anand Parkash from interfering in the peaceful possession of respondent No.1/plaintiff over the suit land. Being dissatisfied, the appellant preferred first appeal, which too resulted into dismissal vide judgment dated 16.02.2015.

Learned counsel for the appellant contended that both the Courts below have lost sight of the fact that appellant was owner in possession of the suit land by virtue of registered sale deed No.1753 dated 17.10.2005 (Ex.D1). Both the Courts below have also failed to appreciate that respondent No.1/plaintiff, being son of the co-sharer of the land, namely, Umrao Singh, could not have been declared as tenant “*gair marusi*” over the suit land.

I have given my anxious thought to the submissions made by learned counsel for the appellant.

Perusal of the impugned judgments of both the Courts below show that appellant as DW1 categorically admitted that she had no concern, whatsoever, with the suit land, which was recorded in possession of respondent No.1/plaintiff and that she had already obtained possession of the property allegedly purchased by her from her vendors, namely, Bakhtawar and Dharambir vide registered sale deed No.1753 dated 17.10.2005. Similar admission was also made by her witness DW2 Sheo

Since the appellant herself has denied her claim over the suit

RSA No.3292 of 2015 (O&M)

land in any manner, therefore, this Court finds no ambiguity or illegality in the impugned judgments and decrees passed by both the Courts below. No substantial question of law arises for consideration in this appeal.

Resultantly, this appeal being devoid of any merit, is hereby dismissed.

(Ramendra Jain)
Judge

July 04, 2017
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.