

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-3436-2017 (O&M)

Date of decision: 06.07.2017

Ram Dev Yadav

..... Appellant

Versus

Nirmala Yadav

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vaibhav Prashar, Advocate for the appellant.

RAMENDRA JAIN, J. (ORAL)

1. Being unsuccessful before both the Courts below, the appellant-defendant has filed the instant Regular Second Appeal.
2. In nutshell, respondent-plaintiff filed a suit for mandatory injunction, against the appellant to direct him to vacate and hand over the peaceful possession of the suit property as detailed in para 1 of the judgment dated 22.12.2015, passed by the learned trial Court, on the ground that she, after purchasing the plot vide sale deed dated 31.08.2001, had raised construction of her house. Since, the appellant was the real brother of her husband, therefore, she permitted him to reside in the same as a licensee. However, behaviour of the appellant towards her and her husband was not good. The appellant also filed a frivolous suit against her. Consequently, a legal notice dated 16.06.2014 was got issued, to the appellant regarding cancellation/rejection of his license and to vacate the suit property within 15 days.

his brother Ramdeen Yadav, were running a business in partnership and the plot measuring 125 Sq. Yards was purchased by them jointly. But, the same was got registered in the name of respondent-Nirmala Devi, being his real sister-in-law. After purchasing the plot, he along with his brother Ramdeen Yadav, by investing money constructed a house thereon. The respondent along with her husband was residing on the ground floor, whereas he was residing on the first floor and, thus, in this way, he claimed himself to be the joint owner in the suit property. After due trial, the suit of plaintiff-respondent was decreed in *toto* by the learned trial Court, vide judgment and decree dated 22.12.2015.

4. Being aggrieved, the appellant filed an appeal before the learned Additional District Judge, Faridabad, which too was dismissed vide judgment and decree dated 31.05.2017. Hence, the present Regular Second Appeal.

5. Learned counsel for the appellant contended that admittedly, the appellant is the real brother of the husband of respondent-plaintiff and both had purchased the suit property by joint funds, but in good faith, the sale deed was executed in favour of the respondent-plaintiff. To fulfill her legal obligation with respect to admit the claim of appellant over first floor of the suit property, the respondent had executed a GPA in his favour which proves that the suit property was purchased from the joint funds. The appellant and his brother i.e. husband of the respondent are still running the business jointly in partnership of which the appellant is partner to the extent of 25% which fact also proves that the suit property was purchased jointly.

6. After giving my thoughtful consideration to the submissions made by learned counsel for the appellant, I do not find any merit in the

instant appeal.

7. Admittedly, the sale deed qua the suit property stands in favour of respondent-Nirmala Devi and, thus, she is legal owner in possession of the same. After coming into force the Benami Transactions (Prohibition) Act. 1988, such type of controversies have been set at rest by making specific provisions that no suit, claim or action to enforce any right in respect of any property held *benami* against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property. There are concurrent findings of both the Courts below declaring the respondent-plaintiff as absolute owner of the suit property. No question of law much less substantial has been raised.

8. In view of the discussion made above, the instant appeal being completely devoid of any merit is dismissed.

July 06, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No