IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-3635-2016 (O&M)
Date of Decision:26.07.2018

Nirmal Kaur ... Appellant

Versus

Ranjit Singh & another ... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Anil Kumar Spehia, Advocate for the appellant.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Plaintiff/appellant is in second appeal before this Court having remained unsuccessful in both the Courts below.

2. Briefly, it may be noticed that plaintiff/appellant, Nirmal Kaur instituted a suit for permanent injunction restraining the defendants from taking forcible possession of the house as detailed in the head note of the plaint. It was averred that the plaintiff is in lawful and peaceful possession of the suit property. She is having ration card/voter card of the same address and is also paying electricity charges pertaining to the electricity meter installed in the suit property. Plaintiff asserted that she was married with one Sukhwinder Singh on 14.04.1992. The matrimonial alliance was not proceeding smoothly since Sukhwinder Singh was a man of questionable character. With the objective of bringing peace in the matrimonial home, it was stated that parents of the plaintiff had purchased the suit property even though with their own funds but in the name of Sukhwinder Singh. It was

Harjeet Kaur
2018.08.02 11:42
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further asserted that husband of the plaintiff did not mend his ways and had taken steps to forcibly evict the plaintiff from the house in question and accordingly, a civil suit had been filed by the plaintiff against her own husband for restraining him from taking forcible possession of the suit property. The instant suit was filed against the subsequent purchasers of the suit property. Even though, a stand was taken that the suit property is still in the ownership of her husband and the subsequent sale deed, if any, was a sham transaction.

3. Suit was contested in terms of filing of a joint written statement by the defendants taking a stand that the plaintiff is not in possession of the suit property. The suit property was stated to have been purchased by the defendants from one Devinder Singh to whom the property had been sold by the husband of the plaintiff. Defendants claimed to have been put in possession of the suit property at the time of registration of the sale deed executed by vendor Devinder Singh in their favour.

4. Upon the pleadings of the parties, the following issues were framed by the trial Court:

> "*1. Whether the plaintiff is entitled to seek injunction as prayed for? OPP*
> *2. Whether the suit is not maintainable? OPD*
> *3. Whether the plaintiff has no locus-standi to file the suit? OPD*
> *4. Relief."*

5. On the basis of evidence adduced on record and after hearing counsel for the parties, suit of the plaintiff was dismissed by the trial Court vide decision dated 30.01.2014. A civil appeal preferred by the plaintiff has also met the same fate vide judgment dated 26.02.2016 passed by learned

Harjeet Kaur
2018.08.02 11:42
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Additional District Judge, Kapurthala.

6. Resultantly, the instant second appeal before this Court.

7. Counsel for the appellant has argued that possession over the suit property stood duly proved in the light of the ration card/voter card as also electricity bills which pertained to the house in question. Further submission has been made that the house in question had been purchased by parents of the appellant from their own sources and it was only to bring about peace in the matrimonial home that the sale deed had been registered in the name of Sukhwinder Singh i.e. husband of the appellant. Further argued that the two sale deeds i.e. between Sukhwinder Singh and Devinder Singh in the first instance and subsequently, between Devinder Singh and the defendants Ranjit Singh etc. were sham transactions and in pursuance to such sale deeds, actual and physical possession of the suit property had not been delivered to the vendees. Counsel contends that it is a case of mis-reading and mis-appreciation of evidence.

8. Having heard counsel for the appellant at length, this Court is of the considered view that the instant appeal lacks merit and deserves to be dismissed.

9. Appellant was seeking the relief of permanent injunction. It goes without saying that it was imperative upon the plaintiff/appellant to secure such relief to have proved and established her possession over the suit property. Even though, the averments in the plaint were to the effect that she was in possession of the suit property, yet counsel has made available for perusal of this Court during the course of hearing the deposition of the plaintiff/appellant, Nirmal Kaur and who appeared as PW1 before the trial

Harjeet Kaur
2018.08.02 11:42
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Court. In her cross-examination, she has deposed to the following effect:

> *"It is correct that respondent No.5 had sold the suit property to Devinder Singh S/o Pritam Singh S/o Late Kartar Singh for lawful and valid consideration and also put such Devinder Singh into possession of the same vide registered sale deed dated 01.08.2008. It is correct that Devinder Singh had sold the suit property vide registered sale deed dated 15.09.2008 to defendant for lawful and valid consideration and such Devinder Singh also put the defendants in possession of the same and mutation to both the sale deeds was duly got entered and sanctioned."*

10. The afore reproduced deposition of the plaintiff/appellant was a clear admission to the fact that the possession of the suit property stood delivered to the first purchaser i.e. Devinder Singh upon suit property having been sold by Sukhwinder Singh vide sale deed dated 01.08.2008. Subsequently, possession stood delivered in favour of the defendants/respondents herein in pursuance to registered sale deed dated 15.09.2008 wherein Devinder Singh was the vendor.

11. Under such circumstances, this Court does not find any infirmity in the view taken by the Courts below in declining the relief of injunction simpliciter as was prayed for.

12. It would also be apposite to take note that in her deposition as PW1, plaintiff/appellant Nirmal Kaur also conceded that she had not filed any suit for declaration against the sale deeds dated 01.08.2008 and 15.09.2008, whereby the suit property had been sold by Sukhwinder Singh to Devinder Singh and subsequently by Devinder Singh to the defendants/ respondents herein. This by itself would nullify the submission raised by counsel that the subsequent sale deeds were sham transactions.

Harjeet Kaur
2018.08.02 11:42
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13. The present appeal does not raise any substantial question of law much less substantial question of law. The impugned judgments are well reasoned and based on cogent and valid reasoning.

14. No interference in the matter is called for.

15. Appeal is dismissed.

16. Since the main appeal itself has been decided, pending applications, if any, shall also stands disposed of.

26.07.2018 **(TEJINDER SINGH DHINDSA)**
harjeet **JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No

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2018.08.02 11:42
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