

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

RSA 5814 of 2016 (O&M)
Date of decision: 29.10.2018

Kewal Raj

.....Appellant

versus

Subhash Chander and others

.....Respondent

Coram: **Hon'ble Mrs. Justice Rekha Mittal**

Present : Mr. Rai Singh Chauhan, Advocate
 for the appellant

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Rekha Mittal, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit filed by the plaintiff/appellant asserting him to be owner in possession of suit house on the basis of sale deed dated 10.08.1981 executed by Shri Babu Ram son of Kapura in favour of Bihari Lal, his father being a benami transaction and permanent injunction restraining the respondents/defendants from interfering in his possession of suit house was dismissed by the trial Court vide judgment and decree dated 08.01.2014 that came to be affirmed in appeal by the District Judge, Pathankot.

The sole submission made by counsel is that previously Bihari Lal defendant No. 1 filed civil suit No. 186 dated 27.07.1999 titled *Behari Lal vs Kewal* wherein he admitted in his statement made on 11.10.2004 that the plaintiff/appellant Kewal Raj had paid entire sale consideration for purchase of suit plot in his name.

The Courts have negated plea of the appellant/plaintiff by making reference to Sections 3 and 4 of the Benami Transactions (Prohibition) Act, 1988 (in brevity, 'the Act').

Counsel for the appellant is not in a position to advance any arguments in order to have an escape of rigors of Sections 3 and 4 of the Act that creates an express prohibition from making such a claim, as has been sought to be raised by the plaintiff/appellant. As such, the appellant can neither derive any advantage to his contention from the alleged admission made by Bihari Lal nor that admission can create an estoppel against the respondents/defendants to contest claim of the plaintiff/appellant qua ownership to suit house. In this view of the matter, no error much less perversity can be noticed in consistent findings recorded by the Courts, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*. As the appeal has been decided on merits, application for condonation of delay in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

29.10.2018
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