

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-1285-2017 (O&M)

Date of decision: August 16, 2018

Kanwal Nain Chhabra

...Appellant

Versus

Sanjay Chhabra & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Budhwar, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff Sanjay Chhabra filed a suit for declaration against appellant and respondent No.2 to the effect that plaintiff and defendants, being brothers and sisters, are owner in possession of a three storey house as detailed in the plaint. It was alleged that parties to the suit are members of joint Hindu family, who are legal heirs of late Jagdish Raj Chhabra. Deceased Jagdish Raj Chhabra had purchased a residential plot No.1305, measuring 225.5 sq. meters, situated in Ansal's Palam Vihar, Gurgaon, from joint funds of the family. During life time of Jagdish Raj Chhabra, in a family settlement, said house was allotted to both the parties. Jagdish Raj Chhabra expired on 20.04.1998, leaving the parties as his only legal heirs. However, defendants started questioning title and possession of plaintiff in the said property. Thus, plaintiff filed instant suit. Suit was resisted by the defendant No.1, who took up the plea that

father of the parties and defendant No.1 were partners of firm M/s Jay Kay Printers and the house in question was purchased by late Jagdish Lal Chhabra and defendant No.1 from the joint funds of the said partnership firm. After death of their father, first floor and second floor of the house were constructed by defendant No.2 from her own funds. Other averments of the plaint were also denied. After hearing both the parties and perusing oral as well as documentary evidence, the trial court decreed the suit, declaring both the parties as joint owners of the house in question. It also directed the concerned authorities to make necessary correction in the records in this regard. It observed that defendant No.1 had failed to produce any document showing that first and second floors of the house was constructed by defendant No.1 from his own funds, and that the property in question was purchased from the joint funds of the partnership firm. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

(RAJAN GUPTA)
JUDGE

August 16, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No