

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision:22.5.2018

RSA No. 1609 of 2018(O&M)

Bhavnesch Chopra

---Appellant

vs.

Asha Chopra and another

---Respondents

RSA No. 1610 of 2018(O&M)

Bhavnesch Chopra

---Appellant

vs.

Asha Chopra and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Sanjeev K.Virk, Advocate
for the appellant in both the appeals

Rekha Mittal, J.

This order will dispose of RSA Nos. 1609 and 1610 of 2018 as identical questions of law and fact are involved for adjudication. For brevity, facts are taken from RSA No. 1609 of 2018.

The present lis pertains to a dispute between Bhavnesch Chopra son of Dhir Inder Nath Chopra and Asha Chopra as appellant/plaintiff filed a suit for permanent injunction restraining his mother and brother Manish Chopra from interfering in his possession of one room of house bearing No. B-VI/31 near Dharni Dhar Mandir, Mohalla Malkana, Kapurthala. In the suit filed by the

appellant, respondents/defendants filed counter claim seeking mandatory injunction directing the appellant to hand over possession of one room shown red in the site plan of the suit house, detailed in the counter claim.

The sole contention raised by counsel for the appellant is that the suit property is ancestral property of his father namely Dhir Inder Nath Chopra, appellant had a right therein by way of birth, therefore, he is entitled to possession of the room in question. It is argued that the suit house was purchased in the name of Asha Chopra but money for purchase of the suit house was spent by Sh. Dhir Inder Nath Chopra. It is further argued that prior to purchase of the suit house on 31.7.2006, Sh. Dhir Inder Nath Chopra sold the house vide sale deed dated 26.7.2006 and sale consideration received on the basis of sale deed dated 26.7.2006 was invested for purchase of house in the name of Asha Chopra vide sale deed dated 31.7.2006.

Counsel for the appellant, in response to a query has fairly informed that no documentary evidence has been placed on record in order to show that property No. XXXVI/93/A, subject matter of sale deed dated 26.7.2006 was owned by his grand father or great grand father Sh. Hans Raj in order to prove that the said property was joint Hindu family coparcenary property in the hands of Sh. Dhir Inder Nath Chopra. On the other hand, perusal of the sale deed aforesaid would reveal that it has been recorded that the said property is owned by Sh. Dhir Inder Nath Chopra as per certificate TS-I issued by Nagar Palika (Municipal Council), Kapurthala and family partition dated 11.6.1973. Assuming that Sh. Dhir Inder Nath Chopra got this property by way of family partition with his father, the same would be treated as personal property of Dhir Inder Nath Chopra, therefore, the appellant cannot derive any advantage to his contention that as sale proceeds of property sold vide sale deed dated 26.7.2006 were invested for purchase of the suit house in the name of Smt. Asha Chopra and for that reason the suit property is to be treated as ancestral property qua the appellant and

entitling him to claim a right of ownership therein. In this view of the matter, I do not find any reason to interfere in concurrent findings recorded by the court negating plea of the appellant that he is in occupation of one room in the suit house as a matter of right being co-owner thereof.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed.

(Rekha Mittal)
Judge

22.5.2018

paramjit

Whether speaking/reasoned: Yes

Whether reportable : Yes/No