

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA No.1995 of 2018 (O&M)

Date of Decision: 19.4.2018

Balbir

...Appellant

Versus

Satwati

...Respondent

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Sanjeev Kr.Panwar, Advocate for
the appellant.

HARINDER SINGH SIDHU, J.

The plaintiff is in regular second appeal against concurrent findings of the courts below whereby his suit for declaration and permanent injunction has been dismissed.

The case set up by the plaintiff was that he and the defendant were owners in possession of two adjacent shops situated at bus-stand Hathin, Tehsil Hathin, District Palwal. Shop No.1 (a) was in actual physical possession of the appellant whereas shop No.1 (b) was in actual physical possession of the defendant. The plaintiff and husband of defendant alongwith their two brothers and parents were members of a Joint Hindu Family. The plaintiff and husband of the defendant were employed in a factory. They used to hand over their salary to their father. Both the shops were purchased on 25.8.2000 by the father of the plaintiff out of the Joint Hindu family funds. The sale deed however was got registered in the name

of the defendant as she was the only educated person in the family. This was

done on the understanding that the defendant would transfer the ownership rights in the shop to the plaintiff on demand. However, as the defendant refused to do the plaintiff instituted the suit for declaration that he is owner in possession of shop No.1(a).

The case of the defendant was that she was the absolute owner of the shop. The plot for both the shops was purchased by her husband in her name on 25.8.2000 after his voluntary retirement. Her husband was employed at Eicher Company Faridabad. On his retirement in July, 2000 he received an amount of Rs.5,27,302/- as VRS and purchased the plot in name of the defendant. Mutation had been duly sanctioned in the name of the defendant on 21.9.2000. The defendant's husband had inducted the plaintiff as licensee in the year 2005 but he had refused to vacate the same despite being asked to do so. The defendant also filed a counter claim and prayed for a decree of possession directing the plaintiff to hand over vacant possession of the shop No.1 (a) to the defendant. It was claimed that after the purchase of the plot in 2000, the defendant had constructed two shops over the same in the year 2003. Defendant had obtained an electricity connection in the said shops in her name.

The Learned trial court held that it had been proved that the plot had been purchased by the defendant. The plaintiff had not been able to establish that there existed a nucleus of the joint Hindu family out of which the shop was purchased in the name of the defendant. The plaintiff himself admitted that the defendant was residing separately for the last 30 years and the shop had been purchased in the year 2000 when the plaintiff and defendant were already living separately. He also admitted that he was in

possession as a licensee over the same and he never paid any rent to the defendant. In view of the evidence, the learned Trial Court dismissed the suit and allowed the counter claim of the defendant. The plaintiff was directed to vacate the suit shop within one month. The appeal filed by the plaintiff met with the same fate.

Findings of fact had been recorded by the courts below. The plot for the shops had been purchased in the name of the defendant. The plaintiff had not been able to establish his claim that it was purchased from out of the corpus of the joint Hindu family. The defendant on the other hand, had proved that the plot had been purchased out of the VRS amount received by her husband. The plaintiff himself admitted that he had been inducted as a licensee by his brother, the husband of the defendant.

The findings of the courts below are in accordance with evidence. No question of law arises for determination in this appeal. Accordingly there is no merit in the appeal and the same is dismissed.

19.4.2018

(HARINDER SINGH SIDHU)

JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No