

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

CM-8200-C-2017 in/and
RSA-3402-2017
Date of Decision:-8.5.2018

Hardeep Singh

... Appellant

Versus

Jasmer Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Arun Kumar Goel, Advocate for the appellant.

GURVINDER SINGH GILL, J.

Aggrieved by dismissal of his appeal by Court of Additional District Judge, Panchkula, upholding part decretal of his suit for permanent injunction to the extent of protecting his possession over ground floor of the demised premises, while declining relief qua the first floor, the appellant-plaintiff has challenged the said judgment and decree by filing this appeal.

I have heard the learned counsel for the appellant/plaintiff.

The learned counsel for the appellant/plaintiff has vehemently argued that the learned lower Court did not appreciate the evidence in the correct prospective and that in fact he owns the suit property having purchased the same from one Sh. Shiv Singh Dhiman. The learned counsel has further submitted that the learned lower Courts have placed undue reliance upon the cross-examination of witness of the plaintiff, PW-1 Gian Singh, wherein he stated that a meat shop is being run on the first floor of the demised premises.

I have considered the aforesaid submissions. The contention of the plaintiff that he is owner of the demised premises in question can hardly be accepted as there is no document of title in his favour. The alleged receipt Ex.P-2 pertaining to his purchase of demised premises in question cannot be taken into account being an unregistered document and also on account of lack of any corroborative evidence. Further, while he claims to be in possession of the first floor of the shop as well but his own witness PW-1 Gian Singh, had demolished the case by stating that some meat shop is being run on the first floor of the shop in question, whereas the appellant/plaintiff claims to be running a photography shop. The mere fact that a sign board of the plaintiff's shop was hanging on the first floor would not confer any right as usually such sign boards are affixed at a height so as to be visible from a distance. During the course of arguments, it has also come up that the respondent/defendant had filed an ejectment petition against the appellant/plaintiff, which has been decreed indicating status of respondent of being owner, though an appeal is pending. There is no infirmity in the concurrent findings as returned by the lower Courts. Consequently, the appeal deserves dismissal.

The appeal is also accompanied by an application under Section 5 of the Limitation Act for condonation of delay of 137 days. No convincing reason is forthcoming to explain the said delay. As such the application as well as appeal are dismissed.

8.5.2018

pankaj

**(Gurvinder Singh Gill)
Judge**Whether speaking /reasoned
Whether ReportableYes / No
Yes / No