

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

248

RSA No.5033 of 2017 (O&M)

Date of Decision : 11.01.2018

Narinder Kaur

..... Appellant

Versus

Kanwal Jit Singh @ Kamal Jit Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Parminder Singh, Advocate
for the appellant.

Mr. G.S.Bhatia, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by the respondent.

The case set up by the respondent was that he had purchased the house in question and that the appellant was well known to him. She being a widow lady had requested him that she had no place to stay and prayed that she may be allowed to live in the house in question for 6 months whereafter she would make her alternate arrangement. After the period of six months was over the respondent had terminated her licence and requested her to vacate the premises. She not having been done so the instant suit was filed.

The claim of the appellant in the written statement was of total denial. She denied that she even knew the respondent and rather took the plea that the house in question was purchased by her and she was living in it. It was found that in fact the property purchased by the appellant was adjacent to the property purchased by the respondent and consequently both the Courts held that the case of the respondent was proved and decreed the suit.

The first argument raised by learned counsel for the appellant is that the suit was filed 1 year and 10 months after the revocation of the licence and thus the discretionary relief of mandatory injunction should have been declined.

Learned counsel for the respondent has relied upon ***Sant Lal Jain Vs. Avtar Singh, 1985 (1) RCR (Rent) 696*** where the licensor had filed a suit after 3 years of the termination of licence and in that case the Supreme Court held as follows :-

“7. In the present case it has not been shown to us that the appellant had come to the court with the suit for mandatory injunction after any considerable delay which will disentitle him to the discretionary relief. Even if there was some delay, we think that in a case of this kind attempt should be made to avoid multiplicity of suits and the licensor should not be driven to file another round of suit with all the attendant delay, trouble and expense. The suit is in effect one for possession though couched in the form of a suit for mandatory injunction as what would be given to the plaintiff in case he succeeds is possession of the property to which he may be found to be entitled. Therefore, we are of the opinion that the appellant should not be denied relief merely because he had couched the plaint in the form of a suit for mandatory injunction.”

In the circumstances, the plea of delay can not be accepted and the same is rejected. No other point has been argued.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

11.01.2018
pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No