

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

1. RSA No.500 of 2007 (O&M)
Date of decision : 01.03.2019

Raj Nandal

...Appellant

Versus

Shanti Bhan

...Respondent

2. RSA No.694 of 2007 (O&M)
Date of decision : 01.03.2019

Raj Nandal

...Appellant

Versus

Shanti Bhan

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S. Tacoria, Advocate for the appellant.
(In both the appeals)

Mr. Anil Rathee, Advocate for the respondent.
(In both the appeals)

ANIL KSHETARPAL, J. (ORAL)

This judgment shall dispose of RSA Nos.500 and 694 of 2007.

Two suits were filed, one for declaration by the appellant Raj Nandal and second by Mrs. Shanti Bhan for possession who is respondent herein. Suit filed by Raj Nandal was dismissed whereas suit filed by Smt.

Shanti Bhan for possession was decreed.

Property is a residential house No.218 measuring 234 square yards allotted by the Housing Board, Haryana to Mrs. Shanti Bhan. Mrs. Raj Nandal-appellant-plaintiff is a sister-in-law of Shanti Bhan. She claims that there was oral family settlement and pursuant thereto she is in possession of the property. She has also pleaded that ₹7,00,000/- was paid in lieu of the aforesaid house. In order to prove family settlement, document Ex.P2 has been produced which is not signed by Raj Nandal. It is part of notebook maintained by Mrs. Shanti Bhan wherein she has written that the price of the house is not less than ₹7,00,000/- and it has been given for residence and not for sale. This is the only document on the basis whereof Raj Nandal seeks declaration that she is owner in possession.

Learned counsel for the appellant has referred to the statement of Smt. Shanti Bhan in other litigation with someone else wherein she stated that she has sold the house in question. However, it is no where mentioned that to whom this house has been sold and at what price. Mrs. Raj Nandal has also failed to prove payment of ₹7,00,000/- as is being asserted by her.

Both the Courts below on appreciation of evidence have found that the case set up by Raj Nandal that there was a family settlement, has not been proved. Undisputed owner-Mrs. Shanti Bhan is not member of the family having been married in the year 1946. It has come in evidence that son of Mrs. Raj Nandal was facing murder trial at Sonapat. It is the case of Mrs. Shanti Bhan that being related, Raj Nandal was granted permission to reside in the aforesaid house.

Transfer of title of immovable property worth more than ₹100/-

is only permissible except through a registered document. Only exception is if the property belongs to joint hindu family and there is some family settlement. Document Ex.P2 is not a memorandum of family settlement. In fact, it is part of notebook in which she has written the details of payments/expenditure she is making. Against the house, no entry of receipt of any amount has been mentioned rather it has been clearly mentioned that Raj Nandal given permission to reside and not for sale.

In view of the aforesaid, there is no error in the judgments passed by both the Courts below.

Both the Regular Second Appeals are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

01.03.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No