

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

**RSA No.2960 of 2017 (O&M)
Date of Decision.20.05.2019**

Ranjit Singh

...Appellant

Vs

Palwinder Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Deepak Nayyar, Advocate
for the appellants.

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AMIT RAWAL J. (ORAL)

C.M. No.6760-C of 2019

For the reasons stated in the application, order dated 09.04.2019 passed by this Court is recalled and the appeal is restored to its original number.

Application is allowed.

Main Case

The present regular second appeal is directed at the instance of the appellant-defendant against the judgment and decree of the lower Appellate Court whereby suit of the plaintiff seeking permanent injunction from forcible interference into exclusive possession of the suit property dismissed by the trial Court, has been decreed.

The respondent-plaintiff filed civil suit on the ground that mother Swaran Kaur was in possession of the suit property by virtue of lease deed 7.1.1991 and was also owner of one house measuring 8 marlas. She died on 7.2.2004 and prior to her death expressed her willingness regarding distribution of the properties

amongst legal heirs. In view of such settlement, Swaran Kaur put defendant in possession of the house measuring 8 marlas and conferred ownership whereas plaintiff in exclusive possession of the property in question i.e. subject matter of the lease deed. All the legal heirs consented to the aforesaid settlement but since defendant wanted to forcibly dispossess the plaintiff, suit was filed.

Defendant in the written statement stated that Swaran Kaur was in possession but denied that property was distributed during her life time.

Plaintiff examined three witnesses whereas defendants examined four witnesses.

The trial Court noticing the fact family settlement has not been proved and all the details were not given, dismissed the suit. The lower Appellate Court while noticing the admission of the appellant-defendant decreed the suit.

Learned counsel appearing for the appellant-defendant submitted that judgment and decree of the lower Appellate Court is not sustainable as it did not consider the fact that the plaintiff failed to prove any partition of the property. It was joint and in the absence of any exclusive possession, injunction could not have been granted. The lease deed dated 7.1.1991 was duly executed by Laxmi Narain Public Charity Trust, Amritsar in favour of the matter for a period of 99 years. All the siblings have respective share and possession in the same, thus, suit for injunction was not maintainable.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit, as

appellant-defendant in cross-examination categorically admitted that he did not pay any bill of water, electricity and house tax etc. This fact leads to irresistible conclusion that there was an arrangement between the parties which was acted upon. If at all there was truthfulness in the stand taken in the written statement, evidence would have been placed on record to prove the same. In the absence of the same, injunction granted to the respondent-plaintiff on finding him in possession of the suit property, subject matter of the lease deed dated 7.1.1991, is most innocuous.

In view of such circumstances, the judgment and decree rendered by the lower Appellate Court being the last court of fact and law cannot be said to be suffering from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 20, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No