

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

RSA No. 6179 of 2018(O&M)

Date of decision: 28.8.2019

Gurbux Singh and others

.....Appellants

VERSUS

Balwinder Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.S. Sandhu, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for permanent injunction restraining the appellants/defendants from interfering in peaceful possession of respondent/plaintiff or dispossessing her forcibly and without due course of law in respect of house situated in the area of village Jalalabad East, detailed in headnote of the plaint was decreed by the trial Court vide judgment and decree dated 19.01.2018 that came to be affirmed in appeal filed by unsuccessful defendants/appellants..

Counsel for the appellants would argue that the respondent/plaintiff claimed herself to be owner in possession of the suit house but she failed to adduce any evidence that she is owner of the house in question. It is further argued that respondent in her cross examination has admitted that house in question was previously owned by Sh. Saun Singh (since deceased), father of the parties. It is further argued that one of the witnesses examined by the respondent/plaintiff in his cross

examination has stated that suit house is in possession of the appellants and respondent, therefore, claim of the plaintiff in respect of her exclusive possession of the suit house becomes doubtful.

Be that as it may, it is undisputed position of the case that the appellants and respondent are real brothers and sister. It is not denied that the respondent/plaintiff shifted to her parental house along with her son after demise of her husband when Sh. Saun Singh was alive. It is also not disputed that respondent/plaintiff started residing in the house in question though the appellants have raised a plea that she was allowed to stay in one of the rooms of house merely as a licensee.

The Courts, on a detailed consideration of oral and documentary evidence adduced by the parties, have recorded concurrent findings that the respondent/plaintiff is in exclusive possession of the suit house and she is entitle to protect her possession against forcible interference or dispossession at the behest of appellants/defendants. Counsel for the appellants has failed to point out any materials on record that consistent findings suffer from a serious flaw much less perversity warranting intervention in the second appeal. As per the settled position in law, intervention in the second appeal is not permitted even if a different view is possible on the basis of re-appreciation of evidence. In this view of the mater, I find myself unable to accept contentions of the appellants that it is a fit case wherein the appeal needs disposal after notice to the contesting party.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. However, nothing stated hereinbefore shall cause prejudice to right of the appellants

to seek recovery of possession of the suit house on the basis of title being bestowed upon them in view of alleged Will purported to be executed by Sh. Saun Singh in favour of the appellants.

AUGUST 28, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no