

In the High Court of Punjab and Haryana at Chandigarh

**RSA- 6185 of 2018(O&M)
Date of Decision: 14.3.2019**

Gurtej Singh

---Appellant

versus

Nachattar Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Parveen K. Kataria, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for possession in respect of house in question, detailed in head note of the plaint filed by Nachattar Singh son of Ujjagar Singh claiming himself to be owner of the suit house was decreed by the trial court vide judgment and decree dated 26.7.2016 that came to be affirmed in appeal filed by unsuccessful defendant-appellant, by the Court of Additional District Judge, Moga.

Perusal of the judgments passed by the courts would reveal that the respondent-plaintiff claimed ownership of the suit house on the basis of registered sale deed dated 5.3.2008 executed by Kapil Kumar, erstwhile owner of the suit house. The appellant-defendant raised the plea that he has become owner of the suit property on the basis of adverse possession. Both the courts have negated plea of the appellant in respect of his having become owner on the basis of alleged adverse possession. It has also been

noticed that prior to the present litigation, the appellant filed a suit for permanent injunction against dispossession and in the said case he had admitted the respondent to be owner of the suit house and had raised a plea that the suit house was leased out to him on rent @ Rs. 3000/- per month and defendants Nos. 2 and 3 therein being attorney of defendant No. 1 took Rs. 3,50,000/- from the plaintiff who handed over possession of the house in dispute in the presence of Gurtej Singh.

The plea raised by the appellant at the first instance in suit for permanent injunction falsifies and belies his contention that he has become owner of the suit house by way of adverse possession. The plea of permissive possession and adverse possession are mutually exclusive and self-destructive. Counsel has failed to point out an error much less perversity in the consistent findings recorded by the courts.

In view of what has been discussed hereinbefore, finding no merits the appeal fails and is accordingly dismissed in limine. No order as to costs. As the appeal has been decided on merits, applications for condonation of delay in filing and refiling the appeal are of academic relevance.

(Rekha Mittal)
Judge

14.3.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No