

106

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

RSA No. 6425 of 2018 (O&M)
Date of Decision: 20.02.2019

Kuldeep Kaur

-Appellant

Vs

Gurmeet Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikram Anand, Advocate,
for the appellant.

RAJ MOHAN SINGH, J. (ORAL)

Defendant is in regular second appeal against the concurrent judgments and decrees passed by both the Courts below in a suit for recovery.

Plaintiff has claimed ownership over the suit property on which defendant has taken illegal possession. Defendant refused to hand over the possession of the property and the proceedings under Section 144 CPC were initiated at the instance of the plaintiff. Plaintiff claimed recovery on account of use and occupation of the premises.

The suit was contested wherein defendant has denied ownership of the plaintiff. Sale deed dated 20.12.1999 in favour of the plaintiff was denied and the same was claimed to

be result of manipulation.

Defendant further asserted that a site plan was got sanctioned from Municipal Committee in the year 1979. Perusal of written statement filed by the defendant would show that no specific stand was taken by the defendant vis-a-vis his status to be that of tenant or licensee over the suit property. Validity of sale deed dated 20.12.1999 has been held in the civil Court decree Ex.P1 to Ex.P3.

Plaintiff while appearing as PW1 proved the validity of sale deed i.e. Ex.P1 to Ex.P3 which are certified copy of judgments wherein validity of sale deed dated 20.12.1999 was upheld.

Even PW2 Rohit Puri and PW3 Jatinder Singh have proved the prevalent rate of rent in the vicinity of the shop in question. Hardial Singh, Municipal Councilor- DW1 and Rajesh Kumar- DW2 have admitted in the cross-examination that they had no knowledge about the shop whether the same was ever purchased by the plaintiff from the defendant.

Even if PW2 did not step up into the witness box for cross-examination, stand taken by the defendant in the written statement was neither of tenant or of licensee. Sale deed dated 20.12.1999 has been proved on record by way of judicial order i.e. Ex.P1 to Ex.P3. However, DW1 and DW2 have pleaded

ignorance about the knowledge whether the shop in question was ever purchased by the plaintiff from the defendant. Sanctioning of site plan in the year 1979 i.e. prior to sale deed dated 20.12.1999 cannot be taken to be an instance of title in favour of the defendant. The ownership of the plaintiff was never in dispute.

The findings of fact recorded by both the Courts below cannot be held to be on account of mis-reading of evidence or having suffered with any perversity.

No question of law worth cognizance is involved in the present appeal.

This appeal is found to be totally devoid of merits and the same is dismissed in limine.

Since the appeal has been dismissed on merits, therefore, there is no necessity of passing any order in the application for condonation of delay of 358 days in re-filing the present appeal and other miscellaneous applications.

Applications are disposed of accordingly.

20.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No