

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

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RSA No.5119 of 2018 (O&M)
Date of decision: 01.03.2019

SUDESH KUMAR

... Appellant

Versus

SATISH KUMAR AND OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ravinder S. Saroha, Advocate for the appellant.
Mr. Rakesh Sobti, Advocate for
Mr. SK Guleria, Advocate for the caveators-respondents.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against the judgment and decree dated 22.11.2016 passed by the Additional Civil Judge (Sr. Div.), Panchkula and dated 14.08.2017 by the District Judge, Panchkula whereby suit for permanent injunction filed by respondent No.1 in respect of portion of first floor of House No.2328, Sector 15, Housing Board Colony, Panchkula was decreed by the trial Court and appeal preferred by the appellant/defendant No.1 came to be dismissed.

The present litigation is a family feud involving Jal Singh son of Balak Singh, his two sons Sudesh Kumar appellant, Satish Kumar respondent No.1 and Sudha Rani, daughter of Jal Singh. House No.2328, Sector 15, Housing Board Colony, Panchkula is stated to be allotted to wife of Jal Singh (since deceased) but conveyance deed was executed in favour of Sudesh Kumar.

Satish Kumar filed suit for permanent injunction against Sudesh Kumar and others restraining them not to dispossess him forcibly on the premise that Munni Devi, his mother purchased the house on 08.10.1987 and since then he is residing in a portion of first floor of the house in question. Sudesh Kumar filed a suit for mandatory and permanent injunction against Satish Kumar respondent No.1 for seeking his eviction from the house in question. The third suit was filed by Jal Singh against Sudesh Kumar and others seeking declaration and consequential relief of permanent injunction to challenge the conveyance deed executed by Haryana Housing Board in favour of Sudesh Kumar.

The trial Court decreed the suits filed by Satish Kumar in respect of permanent injunction and the one filed by Jal Singh to challenge the conveyance deed in favour of Sudesh Kumar but suit filed by Sudesh Kumar for mandatory injunction and consequential relief of permanent injunction was dismissed vide common judgment and decree dated 22.11.2016. The judgment and decree passed by the trial Court led to filing of three appeals at the behest of Sudesh Kumar alone and the same were decided vide common judgment and decree dated 14.08.2017 passed by the District Judge, Panchkula and all the three appeals were dismissed.

Sudesh Kumar appellant has preferred only one appeal before this Court. Counsel for the appellant would fairly inform that the present appeal has been filed to express his grievance against decree of permanent injunction against dispossession of Satish Kumar from a portion of the house in question.

Counsel for the appellant has not disputed that he does not press any claim against cancellation of conveyance deed executed in his favour by the Housing Board Haryana, in Case No.4257/2013 decided by the trial Court. No sooner conveyance deed in favour of Sudesh Kumar in respect of house in question has been set aside, he cannot claim himself to be owner of the suit house nor can he be allowed to interfere in established possession of Satish Kumar more particularly in the circumstances that suit for mandatory injunction filed by him against Satish Kumar has been dismissed and the judgment and decree passed in the said suit has attained finality between the parties. In this view of the matter, I do not find any merit in contention of the appellant that consistent findings recorded by the Courts restraining defendants from dispossessing Satish Kumar from a portion of the suit house except in due course of law either suffer from an error much less perversity that would call for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, applications for condonation of delay are of academic relevance.

No order as to costs.

01.03.2019

ashok

(REKHA MITTAL)
JUDGE