

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

RSA No.2521-2015(O&M)

Date of Order:18.02.2020

Raghbir and another

..appellants

Versus

Ram Kishan

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Santosh Bhardwaj, Advocate, for the appellants.

Mr. Ashwani Gaur, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

Defendants-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff-Ram Kishan filed the present suit for possession with consequential relief of permanent injunction with respect to a house consisting of two rooms, one kitchen, gallery etc. Plaintiff claims possession being owner on the basis of registered sale deed dated 04.07.1977 and defendants were permitted to reside therein.

Defendants contested the suit by pleading that they are in actual physical possession of the same and the house is constructed by them. They also claimed that in a family settlement, the property fell to their share.

Plaintiff and defendant no.1 are brothers whereas defendant no.2 is wife of defendant no.1.

Both the courts on appreciation of evidence found that the possession of the defendants is permissive and therefore, after termination of the licence, plaintiff is entitled to decree for possession.

This court has heard learned counsels for the parties at length

and with their able assistance gone through the judgments passed by the courts below.

Learned counsel for the appellants submitted that the defendants-appellants are deaf and dumb and they have been duped by the plaintiff. She, hence, submitted that the judgments passed by the courts below are liable to be set aside.

On the other hand, learned counsel for the respondent-plaintiff has submitted that there is ample evidence available on the file to prove that it is the plaintiff who had exclusively purchased the property vide registered sale deed dated 04.07.1977. Defendants were permitted to reside till they construct their own house in another plot which had fallen to their share. Defendants even after constructing the house are refusing to shift to their own house.

This court has considered the submissions.

Once the plaintiff has been proved to be owner of the property and defendants have failed to show any right, title or interest in the suit property, the plaintiff has been rightly held to be entitled to the possession of the suit property.

As regards argument of learned counsel for the appellants that the defendants suffers from disability, this Court has noticed but that itself would not be sufficient to deny the plaintiff for relief of possession.

In view thereof, there is no ground to interfere.

Dismissed.

February 18, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No