

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

Date of decision: 30.1.2020

1.

RSA No. 5562 of 2019(O&M)

Bharat Kaushal @ Bharat Bhushan and anotherAppellants

VERSUS

Bimla Devi and othersRespondents

Present: Mr. A.V.S. Barsat, Advocate for the appellants.

2.

RSA No. 5563 of 2019(O&M)

Bunty and othersAppellants

VERSUS

Bimla Devi and othersRespondents

Present: Ms. Jaspreet Kaur Bhangoo, Advocate for the appellants.

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J.(Oral)

This order will dispose of RSA Nos.5562 and 5563 of 2019 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from RSA No.5562 of 2019.

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for mandatory and permanent injunction as well as mesne profits for use and occupation was partly decreed by the trial Court to the effect that respondent/plaintiff is entitle to mandatory injunction against the appellants that they shall vacate

the premises in question within a period of two months from the date of receipt of order and permanent injunction restraining them from damaging the property in dispute or handing over its possession to some other person. The appeal preferred by unsuccessful appellants was dismissed by the Additional District Judge, Patiala whereby the Appellate Court affirmed findings recorded by the trial Court.

Counsel for the appellants would argue that respondent/plaintiff is their mother. Appellants were born in the property in question and they have the right to live there. It is further argued that present suit was filed by the respondent/plaintiff at the instigation of another son of the family who is not a party to the litigation. The last submission made by counsel is that one of the witnesses examined by the respondent/plaintiff had admitted that respondent did not have the resources to raise construction of first floor of the property in question. Counsel has also sought to press into service some compromise arrived at between the parties which is neither pleaded nor proved.

I have heard counsel for the appellants, perused the paper-book particularly the judgments impugned.

Counsel for the appellants has failed to point out that concurrent findings recorded by the Courts suffer from perversity or raise a question of law that needs determination in second appeal. The appellants have failed to allege much less to prove that they are in possession of demised premises in any capacity other than being the children of Smt. Bimla Devi. In this view of the matter, I do not find an error much less absurdity in the concurrent findings that would call for intervention in second appeal.

For the foregoing reasons, finding no merit, the appeals fail
and are accordingly dismissed in limine.

JANUARY 30, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no