

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

RSA-1450-2021 (O&M)
Decided on : 31.03.2022

Asha Rani

..... Appellant

Versus

Mahender Singh Chitra & anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sarabjit Singh Khaira, Advocate
 for the appellant

Manjari Nehru Kaul, J.(Oral)

The appellant-plaintiff is impugning the judgment and decree dated 09.09.2021 passed by District Judge, Panipat and 30.08.2019 passed by Civil Judge (Jr. Divn.) Panipat in a suit for mandatory injunction with consequential relief of permanent injunction restraining the defendants forever from disconnecting the electricity connection of House No.1634, New Housing Board Colony, Panipat. For the sake of convenience, the parties to the lis hereinafter would be referred to by their original position in the suit.

In brief the case as set out by the plaintiff was that her husband Harbans Lal and defendant No.1 were working together in Telecom Department in Pehowa District Kurukshetra and were good friends. In 1994, defendant No.1 was transferred to Panipat on promotion where he arranged for a house bearing No.1634, New Housing Board Colony, Panipat for the plaintiff as well as her husband to stay. Since the husband of the

plaintiff was still posted and working in Pehowa, the plaintiff along with her children shifted to the said house in Panipat in the year 1996. Once in Panipat, both the plaintiff and the defendant No.1 developed intimacy and started living together in the house as husband and wife. The son of defendant No.1 i.e. Naresh Kumar (defendant No.2) also started living in the said house. In the year 1997, when the husband of the plaintiff was transferred to Panipat, he learnt about her illicit relations with defendant No.1. Resultantly, the husband of the plaintiff moved out and started living separately. Subsequently, defendant No.1 gave the house in question to the plaintiff to live while assuring her that he would divorce his wife and solemnize marriage with her. Thereafter, defendant No.2 left the house and started living with his mother i.e. Shanti Devi at village Bapoli District Panipat. On 16.04.2016, both the defendants along with other persons unsuccessfully tried to dispossess the plaintiff and her children from the suit property. The plaintiff was continuously harassed and threatened by the defendants. On 18.04.2018 with the help of the employees of the Electricity Department, the electricity of the house in question was disconnected on a complaint given by defendant No.1. Even though the plaintiff had been paying the monthly electricity bills continuously till March, 2018, however, in April, 2018 the electricity bill was paid by defendant No.1, who thereafter asked the Electricity Department to disconnect the electricity connection to the house in question.

Upon notice, the defendants filed their written statement. It was submitted that the plaintiff had not approached the Court with clean hands.

A Civil Suit bearing No.84 of 2016 titled as 'Vikas vs Shanti Devi' had

been filed by the son of plaintiff seeking the relief of permanent injunction, which had been dismissed vide judgment and decree dated 07.09.2017. It was also submitted that an ejectment petition, which had been filed by the defendant No.1 and his wife against the husband of the plaintiff seeking ejectment of the plaintiff and her husband from the house in question was pending adjudication. It was pleaded that in fact the plaintiff along with her other family members had hatched a conspiracy to grab the house in question by weaving a false story. It was also submitted that the relationship between the plaintiff and her husband with defendant No.1 was one of landlord-tenant. However, since the plaintiff had not been paying rent to defendant No.1 for the last more than seven years, she had levelled false and fabricated allegations against him.

The plaintiff filed a replication to controvert the submissions made by defendant No.1 in his written statement and reiterated all the pleas taken by her in the plaint.

After the issues had been framed by the Civil Judge (Jr. Divn.), the parties adduced their evidence in support of their respective submissions. The plaintiff examined three witnesses including herself and tendered all relevant documents in support of her case. The defendant No.1 examined himself as DW-1 besides examining one other defence witness in support of his case and tendered all relevant documents including the certified copy of Conveyance Deed executed in favour of respondent-defendant No.1 in respect of the house in question by the Housing Board, Haryana.

On the basis of the material and the evidence led by both the

parties, the relief sought for permanent injunction etc. by the plaintiff was declined by both the Courts below.

Learned counsel for the appellant inter alia contends that both the Courts below gravely erred in ignoring the factum of both the plaintiff and defendant No.1 being in a live-in-relationship and as a consequence of which, the property in question had been given by defendant No.1 to her on the assurance of marriage. Learned counsel submitted that since the plaintiff had been living in the house in question for the last many years along with her children, it lent credence to the fact that the property in dispute had been given to the plaintiff and she had been residing therein, in the capacity of an owner and hence, there was no question of it being a landlord-tenant relationship between the parties.

Heard learned counsel and perused the relevant material on record including the impugned judgments and decree passed by the Courts below.

Admittedly, a petition for ejectment of the plaintiff from the property in dispute is already pending between the parties. The plaintiff while stepping into the witness box as PW-1 admitted that she had been living as a tenant in the house of defendant No.1 for the last 22 years. Not only this, the deposition of the sons of the plaintiff, who deposed as PW-2 and PW-3 reveal that they too had stated that the plaintiff had been paying rent to defendant No.1 .

In the circumstances, the plea of the plaintiff that she had been given the house in question to live by defendant No.1 on account of her illicit relations stands demolished and rather runs contrary to her own

admitted case that the house in question had been taken on rent from defendant No.1. It would also be apposite to mention here that while in the ejectment petition, the plaintiff deposed that there was no electricity connection in the house in dispute and electricity was being consumed with the help of solar energy, however, while deposing in the civil suit in question, the stand taken by her was to the contrary inasmuch as she pleaded that she had been paying the electricity consumption charges till March, 2018. The plaintiff did not even produce any receipts of the electricity consumption bills.

Upon being pointedly asked, learned counsel for the appellant-plaintiff failed to refer to anything on record to show that the conclusions so arrived at by the Courts below were either contrary to the record or suffered from any material illegality.

Resultantly, the appeal, being devoid of merit, is accordingly dismissed. The judgments and decrees of the Courts below are affirmed.

(MANJARI NEHRU KAUL)
JUDGE

31.03.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No