

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

RSA-2407-2022 (O&M)

Date of decision: 09.11.2022

Inderjit Singh

...Appellant

Versus

Devinder Singh and another

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. IPS Issar, Advocate for the appellant(s).

Mr. Naveen Upadhyay, Advocate
for the caveator/respondents.

H.S. MADAAN, J. (Oral)

Plaintiff Devinder Singh had filed a suit for mandatory injunction and recovery against his real brother Inderjit Singh and sister Ranjit Kaur both defendants for issuance of direction to such defendants to vacate and hand over the physical possession of H.No.3275, Sector 45-D, Chandigarh to him besides recovery of Rs.20,000/- as damages for unauthorized use and occupation from 03.06.2015 to 02.07.2015 @ Rs.20,000/- per month as well as future damages at that very rate w.e.f. 03.07.2015 till passing of the decree. In the suit, the plaintiff claimed that he is owner of the house in question, however, he had allowed his brother Inderjit Singh and sister Ranjit Kaur to reside in the house as licensees for the reason that Ranjit Kaur though married in the year 1991 had got divorce in the year 1993 and she along with her son were permitted by the

plaintiff to reside in the house in question. The plaintiff himself started residing separately in another accommodation. Now after death of his father, he did not want to keep the defendants as licensee in his house and asked them to vacate it but to no effect. As such he had filed the suit in question.

On notice, the defendants appeared and filed separate written statements contesting the suit. Defendant No.1 took up a plea that the house in question is a joint hindu family property since Sh. Joginder Singh, father of the parties, who was karta of the family had got the house allotted in the name of plaintiff who was elder son and had paid the entire installments. As a matter of fact, no payment had been made by the plaintiff, therefore, the defendants have got a right to reside in the house in question.

Defendant No.2 in her written statement filed also took up the similar pleas, stating that plaintiff is not the owner of the house in question and has no right to get it vacated from the defendants. According to defendant No.2, plaintiff is only a benami owner. Both the defendants sought dismissal of the suit.

Issues on merits were framed. Parties were afforded opportunities to lead evidence. After hearing arguments, the trial Court had decreed the suit in favour of plaintiff, granting him mandatory injunction, directing the defendants to hand over the vacant possession of house in question to the plaintiff. However, relief with regard to recovery as damages for unauthorized use and occupation and future damages was

declined. It was so done by the trial Court of Civil Judge (Jr. Divn.), Chandigarh vide judgment dated 08.05.2018.

Feeling aggrieved, defendant No.1 Inderjit Singh and defendant No.2 Ranjit Kaur had preferred appeals before District Judge, Chandigarh. That Civil Appeal bearing No.554 of 2018 filed by defendant No.1 and Civil Appeal No.519 of 2018 filed by defendant No.2 were dismissed by learned District Judge, Chandigarh, vide judgment/order dated 24.08.2022, affirming the findings given by the trial Court.

Now the defendant Inderjit Singh has approached this Court by way of filing the present appeal. Plaintiff has filed a caveat and has put in appearance through counsel.

I have heard learned counsel for the appellant/defendant No.1 and counsel for the respondents and I find that there is absolutely no merit in the appeal. Both the Courts below have recorded concurrent findings that plaintiff Devinder Singh is owner of the house in question and the defendants are in possession thereof as licensees. With license of defendants having been revoked, they have no right to continue in possession of the house and are liable to vacate the house in favour of the plaintiff. The plea raised by the defendants regarding the house in question being Joint Hindu Family Property in which they have got a vested right and plaintiff Devinder Singh being a benami owner were rejected. Both the impugned judgments are based upon proper appraisal of evidence and correct interpretation of law and I do not see any reason

to interfere therewith. No substantial question of law or fact arises in this appeal. The appeal is found to be without merit and is dismissed accordingly.

09.11.2022
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No