

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 5867 of 2018 (O&M)

Date of Decision: 14.09.2022

Kamal Nain and Others

... Appellant(s)

Versus

Ramesh Kumar alias Ramesh Khan

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Inderjeet Singh, Advocate
for the appellant(s).

Mr. Amandeep Singh Manaise, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

2. While assailing the concurrent findings of facts, arrived at by both the courts below, the defendants have filed the present appeal.

3. The plaintiff's suit for possession by way of eviction of the defendants with a consequential relief of mandatory and permanent injunction has been decreed by both the Courts below. He claims that the defendants were permitted to reside in the house comprised in khasra No.

270, located in village Bharog, hadbast No. 46, Tehsil Naraingarh, District

~~Anbala~~, Haryana, at a monthly license fee of ₹ 900/-. After terminating the

license by serving notice, he has filed the suit. The defendants while contesting the suit asserted that they have purchased the property from Sh.Maula Baksh, the predecessor-in-interest of the plaintiff. However, the defendants have failed to produce any document to prove that fact. As per the revenue record, the plaintiff is the owner of the suit property. Thus, both the Courts below have decreed the suit.

3. Heard the learned counsel representing the parties, at length and with their able assistance, perused the paper-book as well as the record, which was requisitioned.

4. The learned counsel representing the appellants contends that the defendants are owners in possession of the house located in khasra No. 269 and in fact no house exists in khasra No. 270.

5. From the reading of the plaint as well as the judgment and decree passed by the trial Court, it is evident that the suit has been decreed with respect to house/bara measuring 5 marlas comprised in khasra No. 270 and not 269.

6. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present appeal is dismissed.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

September 14, 2022
“DK”

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