

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****228****RSA-5367-2017 (O&M)****Date of decision: 06.08.2025****Usha****...Appellant(s)****Vs.****Omwati****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Gursher Singh Bhandal, Advocate
for the appellant.

Mr. Rajesh K. Dhankhar, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the appellant/defendant against the judgments and decrees passed by the learned Courts below; whereby the suit filed by the plaintiff/respondent for possession of the suit property, has been decreed by both the Courts below.

2. Briefly stated the facts are that the appellant herein is a daughter-in-law of the plaintiff/respondent. It was the case of the plaintiff that the appellant is occupying the suit house while the plaintiff is residing in a rented accommodation with her family. The plaintiff also pleaded that the appellant is having strained relations with her husband i.e. the son of the plaintiff. Plaintiff had further pleaded that she had bought the suit property for a total sale consideration of Rs.5,500/- vide registered Sale Deed No. 2497 dated 21.08.1989 pursuant to which, Mutation No. 8600 was also sanctioned in her favour. Possession of the suit property was



taken by the plaintiff at the time of purchase itself. The plaintiff had then constructed house on the suit land and used the same for residential purpose. It was alleged that the defendant under the influence of her father had threatened the plaintiff to transfer the suit house in the name of the defendant otherwise, she will involve the plaintiff in false dowry case. The defendant had also harassed, humiliated, and threatened the plaintiff to kill her and also caused beatings to the plaintiff in collusion with her father. In June 2013, the plaintiff started residing in another house; and defendant in the absence of the plaintiff had entered upon the suit house forcibly. In July 2014, the plaintiff had gone to her house, but the defendant did not allow her to enter in the suit house and flatly refused to vacate the suit house. In this background, plaintiff had filed the present suit on 24.07.2014.

3. Upon notice, defendant had contested the suit by filing written statement and stating that she had no source of income; that the suit house had been purchased from joint family income; that the defendant has legal right to reside in her matrimonial home, which was purchased by her father-in-law and later on constructed by her husband. Accordingly, dismissal of the suit was prayed for.

4. Replication was not filed.

5. From the pleadings of the parties, following issues were framed vide order dated 15.09.2015:-

“1. Whether the plaintiff is entitled to the relief for possession along with consequential relief of permanent injunction as prayed for? OPP



2. *Whether the suit is not maintainable in the present form?*

OPD

3. *Whether the plaintiff has no cause of action or locus standi to file the present suit? OPD*

4. *Relief."*

6. Upon appraisal of the pleadings and the evidence led by the parties, the trial Court vide judgment and decree dated 05.07.2016 had decreed the suit of the plaintiff and directed the defendant "*to vacate the property to the extent which is occupied by her and to hand over the vacant possession of the same to the plaintiff within one month from the date of this judgment.*" The Appeal filed by the defendant was dismissed by the learned Additional District Judge, Bhiwani vide judgment and decree dated 13.11.2017. Hence, present Second Appeal by the defendant.

7. It is *inter alia* submitted by learned counsel for the appellant that the Ld. Courts below have wrongly decided the issue no.1 in favour of the Respondent whereas, the Ld. Courts below ought to have decided this issue no.1 in favour of the Appellant and against the Respondent. The Ld. Courts below have wrongly relied upon the versions of the Respondent and erred in not relying on the versions of the Appellant. Further, PW2 Bagrawat Singh (brother-in-law of the Plaintiff) has specifically stated in his cross-examination that the property in dispute was purchased during the lifetime of husband of Plaintiff and moreover, Plaintiff was not having any source of income to purchase the house. Moreover, Ld. Courts below ignored the fact that suit of the Plaintiff was not maintainable as Plaintiff



was never dispossessed by the Appellant because all household items of the Respondent were in the house in question and all the rooms were locked by the Respondent and Appellant was residing in a single room. Now, Appellant is having no house of her own or property to reside because her husband and her mother-in-law colluded with each other and they want to kick out the Appellant. Surprisingly, her husband is having no property in his name although he is earning from Govt. Service and properties are also purchased during this period, but all are in the name of his mother.

8. It is further submitted by learned counsel for the appellant that the Ld. Courts below have not relied upon the arguments advanced by the Appellant and have relied upon the unreliable evidence produced and arguments advanced by the Respondent, which has caused grave injustice to the interest of the Appellant/Defendant.

9. Learned counsel for the appellant further submits that the judgments and decrees rendered by the Ld. Courts below are based on conjectures and surmises and assumptions and presumptions. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees passed by the learned Courts below be set aside.

10. Learned counsel for the respondent/plaintiff vehemently controverts submissions made on behalf of the appellant/defendant and submits that there is sufficient evidence on record to show that the suit land was purchased by the plaintiff and that she had constructed the house in which defendant is residing. It is submitted that therefore, the impugned



judgments and decrees of the learned Courts below suffer from no error and are based on cogent evidence which the defendant has been unable to dispute or controvert. Learned counsel further submits that the jurisdiction of this Court to interfere in the concurrent findings of fact is not called for in the present case. He, accordingly, prays for dismissal of the present appeal.

11. No other argument is raised on behalf of the parties.

12. I have heard learned counsel and perused the case file in detail.

13. I find no merit in the submissions made on behalf of the appellant. Perusal of the record shows that by way of comprehensive evidence brought on record by the plaintiff, it has been proven that the plaintiff is the absolute owner of the suit property which was purchased by her vide Sale Deed Ex.P1. It has also been established that the suit property is the self acquired property of the plaintiff. Further, it has not been denied by the defendant that the house in dispute is in the name of the plaintiff. However, it is submitted by the defendant that the said house was purchased from joint family income. But no evidence whatsoever has been produced by the defendant to substantiate her aforesaid contention. Only a bald submission has been made by the defendant alleging that the suit property is purchased from joint family income. There is nothing on record to indicate that the suit property was purchased from joint family income. Therefore, the same is not joint family property. There is even nothing on record to indicate that the suit property is ancestral or inherited property. In any event, the assertion of the appellant that the suit house is purchased



from joint family income is liable to be rejected as at the time of purchase of the suit land in 1989, the age of the husband of the defendant was only about 15 years. Therefore, the assertion of the defendant that the suit house was constructed by her and her husband, on the face of it, is not made out. As such, the learned Courts below had taken the residence of the defendant in the suit house as permissive residence. On the other hand, the plaintiff was residing in rented accommodation along with her son/estranged husband of the defendant, and her grandchildren.

14. The detailed findings of the learned first Appellate Court are contained in paras 12 and 13 of the judgment and decree dated 13.11.2017, which read as under: -

“12. Admittedly, the appellant-defendant is the daughter-in-law of the respondent-plaintiff. It is also an admitted fact that the house in question stands in the name of respondent-plaintiff and plaintiff-respondent is the registered owner of the house in dispute. It is also admitted fact that a matrimonial dispute is going on between the appellant-defendant and son of the respondent-plaintiff and in this regard appellant-defendant has filed a criminal case under section 498-A IPC against the plaintiff-respondent and his son. It is also admitted fact that the husband of the appellant had also filed a divorce petition against the appellant-defendant under section 13 of H.M. Act. It is also admitted fact that appellant-defendant wife has also filed the petition under section 125 Cr.P.C. and a petition under Domestic Violence Act against the son of the respondent-plaintiff. It is also admitted fact that the plaintiff-respondent is an old widow and reside in a rented accommodation along with her son and grandchildren since



2014 as due to matrimonial dispute they left the house and further due to the reason that the appellant-defendant occupied house in question. The contention of the learned counsel for the appellant-defendant that the plot in which the house is constructed was purchased by the father-in-law of the appellant-defendant and the construction was done with the joint family funds and therefore, the appellant being the wife of son of respondent-plaintiff has right to reside in the shared house, is not sustainable firstly because as per revenue record the house in question stands in the name of plaintiff-respondent and the plaintiff-respondent has purchased the same through registered sale deed vide Ex.P1 whereas the appellant-defendant has not proved or produce any document which shows that the house in question was purchased from the joint family funds. From the perusal of the sale deed and the revenue record, it appears that the house in question is the self acquired property of the plaintiff-respondent and the plaintiff-respondent is the absolute and sole owner of the house in question and the appellant-defendant has no concern with the house in question. The occupation of the appellant-defendant can at the most be treated as permissive residence being the wife of son of the plaintiff-respondent and therefore the appellant-defendant would reside in the house in question so long as so the plaintiff-respondent wish for the same. Now the plaintiff filed suit for possession of the house in question as she herself living in a rented accommodation in her old age despite the fact that she owned a house in her name, so she has every right to take the possession of her house and resides therein peacefully without any interference.

13. Hon'ble Punjab and Haryana High Court in Rakesh Kumar Sood (supra) case has held that a wife cannot claim any right to live in a house exclusively owned by mother-in-law or father-



in-law and share in the house does not include the share wherein aggrieved party have live in a gastric relationship. Hon'ble Supreme Court in S.R. Batra (supra) case has settled the law that now the wife is not entitled to live in the house owned by mother or father of the husband and such type of house does not fall in the definition of "shared household".

15. In view of the above, no ground is made out to interfere in the impugned judgments and decrees of the learned Courts below. The present appeal stands **dismissed**.

16. Pending applications, if any, stand disposed of.

06.08.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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