



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

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**RSA No.1337 of 2025 (O&M)
Reserved on : 28.04.2025
Date of Decision: 20.05.2025**

Rajwinder Kaur

...Appellant

VERSUS

Tarveer Singh

...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A. S. Khosa, Advocate for the appellant.

ALKA SARIN, J.

1. This regular second appeal is by the defendant-appellant challenging the judgements and decrees dated 31.01.2019 and 15.02.2025 of the Trial Court and the First Appellate Court, respectively, whereby the suit for mandatory injunction filed by the plaintiff-respondent has been decreed.
2. As per the plaintiff-respondent he is the owner of the house in dispute situated in Mohalla Premgarh, Hoshiarpur. In 2003 the plaintiff-respondent went abroad, and his family shifted to Divya Jyoti Jagriti Sansthan, Nurmahal, District Jalandhar. The plaintiff-respondent appointed one Sunil Kumar Gandhi as caretaker for the house in dispute and executed a general power of attorney dated 23.05.2003 in his favour and delivered possession of the house in dispute to Sunil Kumar Gandhi. In 2005 the defendant-appellant approached Sunil Kumar Gandhi and pleaded that she be provided shelter as she and her three daughters had been deserted by her husband. Considering the pitiable condition of the defendant-appellant, Sunil Kumar Gandhi

inducted the defendant-appellant as a licensee in the house in dispute. When the plaintiff-respondent returned from Bahrain and requested the defendant-appellant to handover the vacant possession of the house in dispute, she refused. Hence, the suit for mandatory injunction and in the alternative for possession. In her written statement the defendant-appellant took the plea that her father used to reside in the house in dispute as owner in possession till his death after which it was inherited by the defendant-appellant. It was averred that the alleged general power of attorney in favour of Sunil Kumar Gandhi was a forged and fabricated document executed to illegally and unlawfully usurp the residential house of the defendant-appellant who was a deserted lady. The possession of the house in dispute was with the defendant-appellant and therefore there was no occasion to deliver the possession to Sunil Kumar Gandhi as alleged. It was also averred that the value of the house in dispute was more than Rs.15,00,000/- and therefore the suit was undervalued for the purposes of court fees and jurisdiction. In the replication the contents of the written statement were denied and those of the plaint were reiterated.

3. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether plaintiff is entitled to mandatory injunction as prayed for ? OPP
2. Whether the plaintiff is entitled to relief of possession as alternative relief ? OPP
3. Whether the suit of plaintiff is not maintainable ?
OPD
4. Whether plaintiff is estopped by his own act and conduct ? OPD

5. Whether the plaintiff has not come to the court with clean hands ? OPD

6. Whether the site plan is incorrect ? OPD

7. Relief.

4. Vide judgement and decree dated 31.01.2019 the Trial Court decreed the suit of the plaintiff-respondent holding that he is entitled to the relief of mandatory injunction directing the defendant-appellant to deliver vacant possession of the house in dispute. Aggrieved by the decision of the Trial Court the defendant-appellant preferred an appeal which appeal was also dismissed by the First Appellate Court vide judgement and decree dated 15.02.2025. Hence, the present regular second appeal by the defendant-appellant.

5. Learned counsel for the defendant-appellant has contended that the impugned judgements and decrees of the Trial Court and the First Appellate Court are illegal and erroneous and based upon conjectures and surmises. It is argued that the defendant-appellant was infact the owner in possession of the house in dispute having inherited it from her father and that there was no evidence to prove that the defendant-appellant was inducted as a licensee.

6. Heard learned counsel for the defendant-appellant and perused the paperbook.

7. Both the Courts have reached concurrent findings of fact that the plaintiff-respondent had successfully proved his ownership over the house in dispute which fell within the 'Lal Lakeer'. It has also been found that the defendant-appellant herself admitted that she could not produce any document regarding her possession over the house in dispute before 2005. The electricity

bills produced by her are for 2015 and 2016. Though she stated that before 2015 the electricity connection was in the name of her father, there is no evidence in support thereof. To the contrary the evidence on the record shows that before 2015 the electricity meter installed in the house in dispute was in the name of the plaintiff-respondent. The defendant-appellant did not produce any cogent and reliable evidence to substantiate the stand taken by her. There is no material available on the record to make out a case for dismissing the suit of the plaintiff-respondent. No other point has been argued.

8. In view of the above, the concurrent findings of fact returned by both the Courts do not warrant any interference by this Court. There is no ground to interfere in the present regular second appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.05.2025
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO