

2025:PHHC:035561



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

**RSA-2568-2023 (O&M)
Reserved on : 27.02.2025
Pronounced on : 17.03.2025**

Lal Chand @ Lallu

....Appellant

VERSUS

Smt. Sarbati Devi

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Jain, Advocate for the appellant.

ALKA SARIN, J.

1. The present appeal has been preferred by the defendant-appellant challenging the judgment and decree dated 06.12.2016 passed by the Trial Court and the judgment and decree dated 03.07.2023 passed by the First Appellate Court whereby the suit for possession filed by the plaintiff-respondent stands decreed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent purchased the suit property from Lalman son of Mangal Ram vide sale deed dated 28.04.2006 and since then she was the owner in possession and was the absolute and exclusive owner of the suit property and was depositing the house tax also. It was averred that the defendant-appellant was running a tea stall in a room in a passage outside the suit property. After the owner of that room got it vacated from the defendant-appellant he (the defendant-appellant) requested the plaintiff-respondent to give him one room

for keeping his tea making utensils and other articles during the night. The plaintiff-respondent accepted this request. It was further averred that the defendant-appellant had assured the plaintiff-respondent that he would vacate the room as and when required by the plaintiff-respondent. However, when the defendant-appellant was requested to vacate the room he refused. Hence, the suit for possession. The defendant-appellant, who is the son of Lalman – the vendor of the plaintiff-respondent, filed written statement raising preliminary objections about maintainability, cause of action, locus-standi etc. On merits he denied that the plaintiff-respondent was the owner in possession of the suit property in view of the registered sale deed dated 28.04.2006. Rather, a plea was taken that the suit property was the ancestral property of the defendant-appellant and he had a right in it by birth and was the owner in possession. It was the stand taken that in a family settlement the suit property had come to his share and since then he was the owner in possession of the same where he was residing with his children and also had an electricity connection in his name. According to the defendant-appellant the vendor of the plaintiff-respondent had no right, title or interest in the suit property and therefore the sale deed dated 28.04.2006 was merely a paper transaction and was illegal, null and void and liable to be set-aside.

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

1. Whether the plaintiff is entitled to seek possession of the suit property from the defendant as prayed for ?

OPP

2. Whether the suit of the plaintiff is not maintainable ? OPD
3. Whether the plaintiff has no locus standi and cause of action to file the present suit ? OPD
4. Relief.

4. The Trial Court vide judgment and decree dated 06.12.2016 decreed the suit of the plaintiff-respondent. Aggrieved by the decision of the Trial Court, an appeal was preferred by the defendant-appellant which appeal was dismissed by the First Appellate Court vide judgment and decree dated 03.07.2023. Hence, the present regular second appeal by the defendant-appellant.

5. The learned counsel for the defendant-appellant has contended that both the Courts have erred in decreeing the suit of the plaintiff-respondent. It is urged that the defendant-appellant was owner in possession of the suit property as it had come to his share in a family settlement and that there was also an electricity connection standing in his name and therefore the suit deserved to be dismissed.

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

7. In the present case both the Courts have held that the plaintiff-respondent was the owner of the suit property having purchased the same vide registered sale deed dated 28.04.2006 (Ex.PW3/B). The building was raised by the vendor of the plaintiff-respondent after getting the plan sanctioned. In contrast, the defendant-appellant has produced nothing on the record to

establish his ownership over the suit property. Apart from the oral depositions of the defendant-appellant and his witnesses there is nothing to prove that he was the owner of the suit property. Further, there are no details of the alleged family settlement mentioned in the written statement. No date or even year is mentioned. There is no documentary evidence available to even suggest any family settlement between the family members of the defendant-appellant. No other family member of the defendant-appellant was produced to depose about the alleged family settlement. Counsel for the defendant-appellant has submitted that there is an electricity connection in his name which proves that he is owner of the suit property. However, an application for an electricity connection or an electricity bill is not a document of title and does not establish ownership. The several factors which led the Courts to negative the stand of ownership canvassed by the defendant-appellant have been dealt with by both the Courts and the same have not been satisfactorily dislodged by counsel for the defendant-appellant. No cogent and reliable evidence has been pointed out by counsel for the defendant-appellant in support of the case set-up by him. In the face of the findings recorded by both the fact finding Courts, there is no scope for any interference by this Court. No credible and reliable evidence has been highlighted by the counsel for the defendant-appellant for this Court to take a contrary view from the one taken by both the Courts. In view thereof, no fault can be found with the findings returned by both the Courts concerned. No other point was argued.

8. In view of the discussion above, no question of law, much less any substantial question of law, arises in the present case which requires

determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.03.2025

Ankur

**(ALKA SARIN)
JUDGE**

NOTE : Whether speaking/non-speaking: Speaking
 Whether reportable: Yes/No