

Sushil Kumar

Vs

Motiram and Another

Civil Appeal No. 1187 of 1987

(N. P. Singh, Faizanuddin JJ)

26.08.1996

JUDGMENT

N.P. SINGH, J.

1. When this appeal was taken up for hearing on 8-8-1996 the following order was passed:

"The appellant is the son of Respondent 1 born through his first wife, one Smt Chandro. In the year 1943 the mother of the appellant died. Respondent 1 married Smt Satwant Kaur (Respondent 2) in the year 1946. On April 12, 1948 the grandfather of the appellant purchased the disputed house in the name of the appellant. However, on May 19, 1949 the grandfather of the appellant sold the said disputed house for a consideration of Rs 2000 in favour of the stepmother of the appellant i.e. Respondent 2. The suit in question was filed on July 2, 1974 on behalf of the appellant for permanent injunction restraining Respondents 1 and 2 from interfering with the possession of the appellants. That suit was dismissed by the Civil Judge. The appeal filed on behalf of the appellant was also dismissed. The High Court also dismissed the second appeal filed on behalf of the appellant. It appears to be an admitted position that the appellant has remained in possession of the house throughout. However, the learned counsel appearing for the appellant made an offer that the appellant was prepared to give half portion of the house to Respondent 2 and is also prepared to deliver possession of that portion in order to have peaceful settlement. Mr Sodhi, the learned counsel appearing for the respondents stated that the matter be listed on some other day when he will inform in respect of the attitude of the respondents. If the settlement is arrived at, memo of settlement should be filed on that date."

2. Mr Sodhi, the learned counsel appearing for the respondents on 20-8-1996 informed that he could not receive any instructions from the respondents in respect of the offer made on behalf of the appellant on 8-8-1996. But he suggested that the Court may pass any appropriate order taking all the facts and circumstances into consideration as well as the interest of the parties concerned. According to us, the offer made on behalf of the appellant shall be in the interest of both the parties. In view of an admitted position that Respondent 2 is not in possession of the house in question and for one reason or the other the appellant has continued in possession of the said house throughout, it would be in the interest of Respondent 2 also that she is given possession of the half portion of the house as offered on behalf of the appellant. Accordingly, we allow the appeal in terms of the offer made on behalf of the appellant. The appellant shall remain in possession of the half portion of the house and deliver possession of the remaining half portion to Respondent 2 within three months from today.

The appeal is allowed to the extent indicated above. There shall be no order as to costs.