

Ratan vs Achhey Lal on 21 November, 1950

Equivalent citations: AIR1953ALL606, AIR 1953 ALLAHABAD 606

Author: V. Bhargava

Bench: V. Bhargava

JUDGMENT

V. Bhargava, J.

1. This is a plaintiff's appeal whose suit for possession over half portion of the disputed house by ejectment of the respondent has been dismissed by the lower appellate court. The plaintiff-appellant claimed that he was the sole owner of the whole house in dispute and that the respondent had been living in half the house with his consent, by which he meant that the respondent was a mere licensee. The trial court accepted the plea of the appellant and decreed the suit. The lower appellate court, however, disagreed with the trial court and held that the respondent's plea that he was himself the owner of half the house was correct and, therefore, dismissed the suit. The appellant challenges this finding of fact given by the lower appellate court.

2. The lower appellate court's decision that the respondent is the owner of half the disputed house is based on a number of pieces of evidence including an agreement, dated 14-7-1937, which was entered into between these parties. The only question of law that has been urged on behalf of the appellant in this appeal is that the lower appellate court was wrong in admitting this agreement in evidence because it was not registered whereas, under Section 17, Registration Act, its registration was compulsory. The learned counsel for the appellant relied on the provisions of cl. (b) of Subsection (1) of Section 17, Registration Act, his contention being that the agreement, dated 14-7-1937, purported to declare a right in future in an immovable property of the value of more than Rs. 100/- in favour of the respondent. The facts found by the lower appellate court, however, show that on 14-7-1937, when this agreement was executed, neither the appellant nor the respondent had any right or interest in this house. This house was purchased, for the first time in the name of the appellant and three other persons on 28-7-1937, from one Lachhman. On 14-7-1937, it appears that this purchase was under contemplation. In drafting the agreement, however, the language used was such as to indicate that the house had already become the property of these parties. The mere use of this language cannot be held to establish that there was any vested right in this property in either the appellant or the respondent at the time when this agreement was executed. The right was only acquired by means of the sale-deed, dated 28-7-1937. The agreement of 14-7-1937, could not, therefore, declare any right even in future which might be called a vested or a contingent right. This agreement has to be treated as an agreement) that, after the purchase of this property in the name of the appellant, the property would belong in equal shares to the appellant and the respondent.

Such an agreement does not require registration at all. This view of mine is supported by the view taken by a Division Bench of the Lahore High Court in -- 'Dalip Singh v. Jagat Singh', AIR 1938 Lah 721 (A) which followed a previous decision of the same court in -- 'Bhan Singh v. Thakar Das', 89 Pun Re 1908 (B). The facts of these two cases are very similar to the case before me. The learned counsel for the appellant has not been able to show any case law at all to the contrary. The decision of the lower appellate court that this agreement was admissible in evidence is, therefore, correct. The evidence provided by this agreement and the rest of the evidence believed by the lower court clearly lead to the inference that the defendant-respondent is the owner of half the share in the house so that the order passed by the lower appellate court is quite correct.

3. The appeal fails and is dismissed with costs.