

RSA-924-1992(O&amp;M)

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101

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

RSA-924-1992(O&amp;M)

Date of Decision: 04.11.2024

State of Punjab and others

....Appellants

vs.

Darbara Singh and others

....Respondents

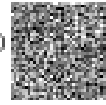
**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**Present: Mr. Aman Dhir, DAG, Punjab  
for appellants-StateMr. R.V.S.Chugh, Advocate  
for LR's of respondents No. 1 to 3

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The Appellants-State through instant Regular Second Appeal is seeking setting aside of judgment dated 15.11.1991 passed by Additional District Judge, Bathinda and judgment dated 01.09.1988 passed by Sub Judge Ist Class (A), Bathinda.

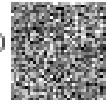
2. Succinctly, the facts are that one person namely Sunder Singh son of Darshan Singh migrated to India at the time of partition. He abandoned 42 standard acres and 1½ units of agricultural land in Pakistan. In view of applicable provisions, Sunder Singh was entitled to allotment of land in India. He passed away before allotment of land and his collaterals filed claim for allotment of land. The claim of collaterals of Sunder Singh



was scrutinized and competent authority in 1956 allotted them 28 standard acres and 1½ units land in village Adamke, Tehsil Mansa, District Bathinda. The collaterals vide sale deed dated 22.02.1957 sold part of allotted land to Darbara Singh, Kartar Singh and Tarlok Singh all sons of Khazan Singh (hereinafter referred as 'plaintiffs'). The deed was duly registered. The plaintiffs took possession of land from collaterals. Two daughters and maternal grandson of Sunder Singh also applied for allotment of land in lieu of land abandoned by Sunder Singh in Pakistan. The Revenue Authorities on 16.12.1962 allotted them land in district Karnal. It is apt to notice that at that point of time district Karnal was part of State of Punjab.

3. The Revenue Authorities realized that Sunder Singh had been allotted land twice in lieu of land abandoned by him in Pakistan. Firstly, land was allotted to collaterals of Sunder Singh and secondly to his daughters and maternal grandson. The Revenue Authorities on 29.06.1971 cancelled land allotted to collaterals of Sunder Singh. The matter travelled to this Court and cancellation of land allotted to collaterals of Sunder Singh was upheld. A Division Bench of this Court while dismissing contentions of the collaterals vide judgment dated 26.04.1982 granted liberty to plaintiffs to raise their claim of bona fide buyer before Civil Court. The relevant extracts of judgment dated 26.04.1982 passed in LPA No.195 of 1979 are reproduced as below:-

*“As regards the additional contention advanced on behalf of the vendees, it may be observed that it would be open to them to resist their dispossession from the land in question by establishing in the Civil Court, if so advised, that they had purchased the land bona-fide, for consideration from the*

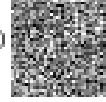


*ostensible owner as and when action to dispossess them from the land is taken by the competent authority.”*

4. On account of cancellation of allotment of land to collaterals, the Revenue Authorities attempted to take possession of land purchased by plaintiffs. They preferred civil suit for declaration and permanent injunction before Sub Judge Ist Class (A), Bathinda. The said suit came to be adjudicated vide judgment dated 01.09.1988. The Civil Court found that plaintiffs had purchased land from collaterals for consideration. They have acted in a bona fide manner and at the time of purchase, land was in the possession of collaterals and they were legally holding possession of the land. The Civil Court allowed suit of the plaintiffs and declared that they are legally entitled to retain the property. The operative portion of judgment dated 01.09.1988 reads as:-

*“In view of what has been discussed above and on the basis of my findings on the above issues, I grant a decree for declaration to the effect that the plaintiffs are the owners and in possession of the suit land measuring 55 kanals 6 marlas, as fully detailed in the cause title of the plaint, situated in village Adamke. I also grant a decree for permanent injunction restraining the defendants No. 1 to 4 from dispossessing the plaintiffs from the suit land illegally and forcibly, otherwise than in due course of law and also from recovering any amount on account of arrears of rent or for use and occupation of the suit land, with costs.”*

5. The State feeling aggrieved from aforesaid judgment preferred appeal before District Judge, Bathinda which came up for consideration before Additional District Judge, Bathinda on 15.11.1991. The Appellate Court did not find substance in the submissions of the appellant-



State and concluded that in view of Section 41 of Transfer of Property Act, 1882, the plaintiffs cannot be dispossessed from the land in question. Hence, instant appeal.

6. Mr. Aman Dhir, DAG, Punjab submits that plaintiffs were duty bound to enquire legality of allotment made to collaterals at the time of purchase of land in question. The land in question was wrongly allotted to collaterals, thus, they were not rightful owners and could not sell it.

7. From the perusal of record, it is evident that land in question was allotted in 1956 to collaterals of Sunder Singh who had abandoned land in Pakistan. The land was allotted to collaterals of Sunder Singh by competent authority. Another piece of land came to be allotted to daughters and maternal grandson of Sunder Singh. The first allotment was made in district Bathinda and another in district Karnal. The Revenue Authorities cancelled first allotment in 1971. The plaintiffs purchased land in question in 1957. The collaterals sold 37 Bighas 17 Biswas land to plaintiffs whereas they were allotted 28 standard acres land. It is apt to notice that at the time of consolidation, the ownership of plaintiffs was not disputed rather they were allotted 55 Kanals 6 Marlas land in lieu of land already in their possession. The allotment to daughters took place in 1962.

8. From the perusal of record and arguments of learned State counsel, it is evident that there is no allegation against plaintiffs that they played fraud with the State. The State is not further alleging that plaintiffs were aware that collaterals of Sunder Singh have wrongly got allotted land. The State is alleging that plaintiffs were duty bound to verify genuineness of allotment to collaterals of Sunder Singh. The argument of State is very strange. The Revenue Authorities which were dealing with allotment of land

could not find out that collaterals of Sunder Singh were not eligible to allotment of land and they cancelled allotment after 15 years whereas plaintiffs who are simple villagers are expected to enquire genuineness of allotment. The plaintiffs were bona fide buyers for consideration. There is neither allegation nor finding that they had purchased land without consideration. The collaterals have sold partial land to another person i.e. Raja Singh and there is nothing on record disclosing that State proceeded against Raja Singh to take over possession of the land in question. The plaintiffs were undisputedly bona fide buyers for consideration and at the time of purchase, land was duly allotted in favour of collaterals and allotment was made by competent authority. The collaterals were having possession of the land and they handed over to plaintiffs. They purchased land in 1957 and allotment was cancelled in 1971. Thus, there was no fault on the part of plaintiffs. The Trial Court as well as Appellate Court have rightly upheld their claim.

8. In view of the above facts and findings, the instant appeal sans merit and is hereby dismissed.

9. Pending Misc. application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)  
JUDGE

04.11.2024  
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| Whether speaking/reasoned: | Yes |  |
| Whether reportable:        | Yes |  |