

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2727 of 1988 (O&M)

Date of Decision: 28.01.2015

Hoshiar Singh

. . . . Appellant

VS.

Hari Singh & Ors.

. . . . Respondents

CORAM: HONBLE MR.JUSTICE SURYA KANT

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

Present: Ms. Alka Sarin, Advocate for the appellant

None for the respondents

SURYA KANT J. (ORAL)

(1). The appellant's suit for declaration to the effect that the sale deed dated 29.08.1981 executed by the respondent-defendant in respect of land measuring 7 kanal fully described in the plaint being null and void, was decreed by the trial court vide judgement and decree dated 20.01.1988 but on appeal filed by the respondent-defendant, the aforesaid judgement was reversed and consequently, the learned Additional District Judge, Bhiwani vide judgement and decree dated 08.09.1988 dismissed the appellant's suit, giving rise to this Regular Second Appeal.

(2). The above-stated declaration was sought by the appellant in the backdrop that earlier he had filed a suit for recovery of ₹10,444.80 NP on 10.09.1981 against respondent-defendant which was decreed on 11.11.1983 with costs. The appellant had moved an

application for attachment of property of the respondent-defendant No.1 whereupon the stay order was passed in his favour. Notwithstanding that order, the respondent-defendant was alleged to have alienated the suit property prompting the appellant to institute the second suit.

(3). The First Appellate Court reversed the decision of the trial court and dismissed the suit after holding that a pronote was executed in favour of the defendant-respondent No.2 to 4 on 15.01.1980 followed by the sale deed executed on 28.09.1981 whereas the injunction order was passed in favour of the appellant on 22.09.1981.

(4). Be that as it may, it has also come on record that for the recovery of the decretal amount of ₹10,444.80 NP another immovable property of judgement debtor comprising land measuring 5 kanal 1 marla was sold and a sum of ₹8800/- was recovered.

(5). In this manner, a substantial part of the decree has been satisfied. While the above-stated finding of fact returned by the First Appellate Court with reference to the specific dates noticed above, calls for no interference as it does not give rise to any substantial question of law, the appellant would indeed be entitled to satisfy the money decree fully if the due amount, is still recoverable in accordance with the law.

(6). Dismissed.

28.01.2015
vishal shonkar

(Surya Kant)
Judge