

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

RSA No.2905 of 1988 (O&M)

Date of decision: 15.7.2015

Bishan Sarup Arya

..... Appellant

Versus

Haryana State and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. H.N. Mehtani, Advocate, for the appellant.

RAJESH BINDAL, J

The appellant has filed the present appeal against the concurrent findings of fact recorded by both the learned courts below, whereby the suit filed by him for declaration was dismissed.

The facts as are available on record are that a Trailer (Trolley) was taken in possession by the police on 15.10.1982. The same was handed over to the appellant on Superdari on 18.12.1982. The value of the Trolley at that time was about ₹ 7,000/-. Respondent No.2 filed application before the District Magistrate on 18.1.1983 for returning of the Trolley to her. On 7.6.1983, the District Magistrate passed the order for returning the Trolley to her after taking the possession thereof from the appellant/plaintiff. The aforesaid order has been impugned in the suit. On the pleadings of the parties, the trial court framed the following issues:-

1. Whether the order dated 7.6.1983 passed by the D.M., Karnal is illegal, void and without jurisdiction as alleged in the plaint?
OPP
2. Whether the plaintiff is the owner and in possession of the trolley in question? OPP
3. Whether the receipt produced by the plaintiff is bogus and fraudulent? OPD
4. Whether the trolley in question is jointly owned by Lal Chand

and Ganga Devi, if so to what effect? OPD

5. Whether the suit is not maintainable in the present form? OPD

6. Relief?

To establish that the appellant/plaintiff had purchased the Trolley from defendant No.3-Lal Chand for a sum of ₹ 7,000/- on 27.12.1981, a writing was produced. It was claimed that the seller had appended his thumb impression on the aforesaid receipt. It was denied by him. His thumb impression was not got compared. Though it was claimed that Sudershan and Mool Chand were present at the time of execution of the receipt, but they were not produced before the court by the plaintiff. Even the scribe of the receipt was not produced. Respondent No.3 produced a bill dated 5.10.1981 on record showing that the Trolley was jointly owned by him with respondent No.2 and hence, he did not have exclusive authority to sell the same.

With the aforesaid material on record, both the courts below recorded concurrent findings of fact that the appellant/plaintiff had not been able to prove that he was owner of the Trolley. The findings recorded are pure and simple findings of fact, which cannot in any manner be termed as perverse. No substantial question of law arises.

The appeal is accordingly dismissed. Consequently, the accompanying applications are also dismissed.

(RAJESH BINDAL)
JUDGE

15.7.2015

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