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

**RSA No.262 of 2012 (O&M)
Date of decision: 14.12.2015**

Ramesh Chand and another ... Appellants

Vs.

Shri R.C.Mittal Collector-cum-Deputy Excise and Taxation Commissioner, Jagadhar & others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. O.P.Gupta, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs are in Regular Second Appeal against the concurrent findings of facts and law, whereby, the suit for permanent injunction, later on amended for declaration setting aside the outstanding arrears of sales tax from M/s Bread Makers Food Products, has been dismissed by both the Courts below.

Mr. O.P.Gupta, learned counsel appearing on behalf of the appellant-plaintiffs submits that the appellants are bona fide purchasers for valuable consideration and had purchased the property owned by Bimla Rani who was the partner of the property vide sale deed dated 26.04.1994, whereas, attachment order is of 22.02.1994. Bimla Rani did not have the notice of the attachment, and therefore, auction proceedings were vitiated in law and not valid as sale deed, ibid, had executed and registered without notice of attachment orders. Even the auction proceedings were conducted in a most fraudulent manner as auction sheet did not bear the signatures of member of the department and entire auction proceedings were vitiated in law. The aforementioned facts have not been noticed by both the Courts below, which resulted into illegality and perversity, much less, substantial question of law arises for adjudication of the present appeal. Even, no objections, have been filed though the auction was held by the sale tax department as per the rules framed under the Income Tax Act for realizing its dues.

I have heard learned counsel for the appellant-plaintiffs and appraised the impugned judgments and decrees of the Courts below.

Both the Courts below have concurrently held that before issuance of attachment order, show cause notices Ex.DW3/A and Ex.DW3/B were served upon the tax payers, i.e., partners of firm M/s Bread Makers Food Products. In essence, the aforementioned notices were received by Tejinder Kakkar partner of firm, who was been called up to explain why the additional demand of sales tax be not recovered in lumpsum as arrears of Land Revenue Act. The appeal, filed by the assessee was also dismissed, on 23.02.1995. The attachment order is Ex.D9. The written statement filed by Bimla Rani reveals that the appellant-plaintiffs were aware of the auction at the time of purchase of the suit property, thus, Bimla Rani had knowledge of the attachment orders of the suit property. It is settled law that when the property has been attached for releasing the arrears of loan as land revenue any transfer, after that, would be illegal, null and void.

I am of the view that it is not a case where the appellants can take the aid of provisions of Section 41 of the Transfer of Property Act being bona fide purchasers.

Keeping in view the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 14, 2015
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