

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

RSA No.343 of 2012 (O&M)
Date of decision: 4.8.2015

Smt. Bina Rani alias Smt. Parveen Sharma

...Appellant

Versus

Kaushalya Devi

.....Respondent

CORAM: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Arvind Mittal, Advocate, for the appellant.

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RAJESH BINDAL, J.

The plaintiff is before this Court against the judgment and decree of the learned lower appellate court, whereby that of trial court was modified and the suit for declaration filed by the appellant/plaintiff was partly decreed.

The appellant in the present case claimed that in view of the award of the Arbitrator dated 10.10.1991, the appellant had right to get the sale of property bearing Municipal No.1193 and 1194 registered in her favour. The Arbitrator was appointed as there was dispute pertaining to specific performance of agreement to sell dated 2.5.1983. The plea raised by the appellant is that for the entire property bearing Municipal No.1193 and 1194, sale deed should have been got registered in her favour. However, Ramesh Chander, the vendor fraudulently got sale deed for part of the property registered in favour of his wife, the respondent. The suit was filed when the possession of the appellant was sought to be disturbed. As the entire property bearing Municipal No.1193 and 1194 had been mentioned in the award, Ramesh Chander, the vendor did not have any right to transfer part of the same in favour of his wife.

After hearing learned counsel for the appellant, I do not find any merit in the contention raised.

In the award of the Arbitrator, though the property bearing Municipal No.1194 and 1193 have been mentioned, however, as far as the area is concerned, reference has been made to the agreement to sell executed between the parties. Specific area of the property has not been mentioned even in the decree passed on the basis of the award of the Arbitrator. Only the property has been identified as ABCD and EFGG without mentioning any specific area. The agreement to sell, which was the root cause of the dispute between the parties and mentioned the area, which was agreed to be sold by Ramesh Chander, has not been produced in evidence by the appellant. In the absence thereof, it cannot be opined that the area for which the sale deed was got registered by Ramesh Chander was less than her right in the property in terms of the award of the Arbitrator on the basis of which decree was passed by the trial court.

Considering the aforesaid fact, I do not find any error in the findings recorded by learned lower appellate court. No substantial question of law arises. The appeal is accordingly dismissed.

(Rajesh Bindal)
Judge

4.8.2015

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