

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

RSA No.629 of 2012 (O&M)
Date of decision: 7.8.2015

Devinder Kaur

...Appellant

Versus

Harminder Kaur and others

.....Respondents

CORAM: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sherry K. Singla, Advocate, for the appellant.

Mr. Rakesh Gupta, Advocate, for respondents No.4 to 14.

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RAJESH BINDAL, J.

The plaintiff is before this Court, having failed in both the courts below, whereby the suit filed by her for possession, declaration and permanent injunction, was dismissed.

In the case in hand, the plaintiff filed a suit for possession of the land measuring 110 bighas 14 biswas as mentioned in the plaint. Prayer was also made seeking declaration that the sale deeds executed by defendants No.1 to 3 in favour of defendants No.4 to 15 are illegal, null and void. Further prayer was made for restraining defendants No.4 to 15 from alienating the suit property. It was claimed that the right in the property in dispute was transferred in favour of the appellant vide consent decree dated 6.11.1990 passed by the court, whereby defendants No.1 to 3 suffered statement and the suit filed by the appellant for declaration that she had become owner thereof on account of adverse possession, was decreed. Thereafter, the property in dispute had been leased out to defendants No.1 to 3. As just before filing of the suit, possession had been taken by defendants No.4 to 15, the suit was filed, which was dismissed by the courts below.

Learned counsel for the appellant submitted that once the property

had been transferred in favour of the appellant by defendants No.1 to 3, any sale deed executed by them thereafter would be bad and will not affect the rights of the appellant. Once defendants No.1 to 3 were not owner of the property after the passing of the decree, they could not transfer title of the property in favour of the vendees. Hence, the judgments and decrees of the courts below deserve to be set aside.

On the other hand, learned counsel for respondents No.4 to 14 submitted that in the case in hand, defendants No.1 to 3 suffered a consent decree in favour of the appellant, who is none else than their sister, just to avoid the property being declared surplus. The decree was passed on 6.11.1990. Immediately thereafter, in the year 1991-92, the property was sold by them to various persons. It was never leased out to defendants No.1 to 3, as there is no document produced on record in support thereof. The appellant applied for entering the mutation of the property in dispute on the basis of the decree passed in her favour, however, the same was declined on 22.4.1992 with the observation that the mutation had already been sanctioned in favour the persons, who had bought the same by way of registered sale deeds. Despite this fact being in knowledge of the appellant way back in the year 1992, no steps were taken by her to challenge the sale deeds in case she was aggrieved against the same. In fact, the appellant in connivance with her brothers, is now trying to befool the persons to whom the property had already been sold. The suit has rightly been held to be time barred, as limitation for challenging a sale deed is three years.

After hearing learned counsel for the parties, I do not find any merit in the present appeal. It is not in dispute that the property in question was transferred by way of consent decree in favour of the appellant by defendants No.1 to 3 on 6.11.1990. It has come on record that the suit was filed and the consent decree was suffered by defendants No.1 to 3 in favour of their married sister with a view to avoid the property being declared surplus, as they were owners to the extent of 600 bighas of land. After the passing of the decree, defendants No.1 to 3 sold part of the property in favour of defendants No.4 to 15, vide various sale deeds got registered in the years 1991-92. The application filed by the appellant for sanction of mutation on the basis of the court decree passed in her favour was dismissed

by the revenue authority while opining that in the record, the property had already been mutated in the name of persons, who had bought the same by way of registered sale deeds. The application for entering the mutation in the name of the appellant was rejected on 22.4.1992. Meaning thereby, it came to the notice of the appellant that there are certain sale deeds registered with reference to the suit property. She was never in possession of the suit property, as no record has been produced to show that she was ever put in possession or that the land in question was leased out by the appellant to her brothers. The suit filed on 30.10.2002, nearly more than 10 years after rejection of the application filed by the appellant for sanction of mutation on the basis of court decree in her favour, was rightly held to be barred by limitation. No substantial question of law arises. The appeal is accordingly dismissed.

(Rajesh Bindal)
Judge

7.8.2015

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