

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 1960 of 2013 (O&M)
Date of decision: 6.8.2015

Sukhbir

.. Appellant

v.

Raj Kumar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Vikas Lochab, Advocate for the appellant.

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Rajesh Bindal J.

Having failed in both the courts below, the plaintiff is before this court, whereby the suit filed by him for declaration and permanent injunction was dismissed.

Learned counsel for the appellant submitted that the appellant-plaintiff is owner in possession of the land measuring 8 kanals. The land in question was purchased by him in an open auction for ₹ 1,60,000/-. Sale certificate was also issued and thereafter even the sale deed was registered in his favour on 30.4.1998. Mutation was sanctioned on 4.5.1998. However, when on 19.7.2006, the appellant-plaintiff went to Halqa Patwari for getting the latest jamabandi, he found that in the jamabandi for the year 2001-02, the land in question has been shown to be allotted to one Shobat son of Mangta on 25.2.2002. The appellant never received any notice from Tehsildar (Sales). No opportunity was afforded for cancellation of the sale deed already executed in favour of the appellant vide order dated 21.7.1999.

After hearing counsel for the appellant, I do not find any merit in the present appeal. No doubt, initially the land was auctioned and the appellant even deposited ₹ 1,60,000/-. However, the courts below have

observed that the stand of the State was that the sale certificate was issued to the appellant in collusion with the staff. For cancellation thereof, notice was issued to the appellant and despite service, when he did not appear, ex-parte proceedings were directed on 3.3.1999. Thereafter, vide order dated 7.7.1999, the sale certificate issued in favour of the appellant was cancelled, after cancellation of even the auction proceedings, hence, to claim that the appellant was not afforded any opportunity of hearing before cancellation of the sale certificate issued is totally misconceived. It has further been found by both the courts below that a sum of ₹ 1,60,000/- deposited by the appellant was refunded to him.

With the aforesaid material on record, in my opinion, there is no merit in the present appeal. The findings recorded are pure and simple findings of fact giving rise to no question of law, much less a substantial question of law. The appeal is, accordingly, dismissed. Consequently, the accompanying application is also dismissed.

(Rajesh Bindal)
Judge

6.8.2015
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