

In the High Court of Punjab and Haryana at Chandigarh

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R.S.A. No.1502 of 2015 (O&M)

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Date of decision:23.4.2015

Sucha Singh

.....Appellant

v.

Kuljinder Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Prashant Bansal, Advocate for the appellant.

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Inderjit Singh, J.

Sucha Singh-appellant/plaintiff has filed this regular second appeal against Kuljinder Singh, Harjit Singh and Sukhwant Singh -respondents/defendants challenging the impugned judgment and decree dated 1.12.2014 passed by the learned Additional District Judge, Patiala dismissing the appeal filed by the plaintiff against the impugned judgment and decree dated 18.12.2013 passed by the learned Civil Judge (Junior Division), Rajpura, vide which the suit filed by the plaintiff has been dismissed.

The brief facts of the case are that the present suit has been filed by plaintiff-Sucha Singh for declaration to the effect that the plaintiff is owner in possession of the suit land and the sale deed bearing Wasika

No.1584 dated 26.6.1986 is self created, manipulated, result of fraud, misrepresentation of facts and illegal, null and void, without consideration and not binding upon the rights of the plaintiff and such type of document has no value in the eyes of law and same is liable to be set aside. It is stated in the plaint that the suit land was previously owned and possessed by maternal father of the plaintiff and after the death of Budh Singh, the plaintiff became owner in possession of the property in dispute to the extent of 2187/13120 share in the land. The defendants used to take the above said land on 'Theka & Batai' from the plaintiff. The plaintiff is an illiterate person and does not have any knowledge of Punjabi. The defendants are very clever and mischievous type of persons and they asked the plaintiff to exchange the above said land with their own land situated in the same village and they are also ready to give some land situated in the village and the plaintiff agreed to it. The defendants played a fraud with the plaintiff and prepared the above said sale deed in place of exchange deed. The plaintiff has come to know about the same when he approached the Halqa Patwari to obtain the 'Jamabandi' in the year 2005 and then he found that the defendants have been shown as owners of the suit land on the basis of sale deed in question.

On the other hand, the case of the defendants is that earlier the suit land was owned and possessed by the plaintiff, but defendants No.1 and 2 purchased the land measuring 2 Bighas 9 Biswas in Village Paharipur, Tehsil Rajpura for sale consideration of ₹5,000/- through registered sale deed dated 26.6.1986 and sale deed is genuine document. Now defendants

No.1 and 2 are owners in possession of the suit land and mutation has been sanctioned. It has been specifically denied that the defendants have taken the land on 'Theka/Batai' from the plaintiff. It is also stated that the plaintiff has received full and final sale consideration from defendants No.1 and 2 at the time of execution of the sale deed. The plea that the suit is time barred has also been taken.

Both the parties produced evidence. The learned Civil Judge (Junior Division), Rajpura, vide judgment and decree dated 18.12.2013 dismissed the suit. The appeal filed by the plaintiff has also been dismissed by the learned Additional District Judge, Patiala vide judgment and decree dated 1.12.2014.

I have learned counsel for the appellant and have gone through the record.

I have also gone through the findings recorded by the Courts below. The findings given by the Courts below are correct and as per evidence on record and law. There is nothing on the record to show that the evidence has been mis-appreciated by the Courts below. The findings given by the Courts below are concurrent. No substantial question of law arises. As the plaintiff alleges fraud played upon him, he is to prove the same, but he has not led cogent evidence to prove the same. Further more, if the plaintiff had executed exchange deed instead of sale deed, then he is to show that some land had been given to him. But he admitted that no land was given to him in the year 1986. The suit has been filed in the year 2007 means after 21 years of execution of the sale deed.

At the time of arguments, it is admitted by the counsel for the appellant-plaintiff that the respondents-defendants are in possession over the suit land since the year 1986. If it would have the exchange deed instead of sale deed, then there is nothing on the record as to why the plaintiff kept silent for more than 21 years if no land in exchange was given to him. The version of the plaintiff is not reliable. The suit is also time barred. The sale deed has been challenged after more than 21 years.

At the time of arguments, the learned counsel for the appellant also admitted that the document has been executed, though he states that it was exchange deed. The defendants have duly proved the sale deed by bringing the marginal witness of the sale deed and by bringing the Registry Clerk of the office of the Sub Registrar, Rajpura.

As already discussed, the findings given by the Courts below are correct and as per law and correct reasoning have been given by correctly appreciating the evidence, which do not require any interference from this Court and the same are upheld. Otherwise also, no substantial question of law arises in this regular second appeal.

Finding no merit in the regular second appeal, the same is dismissed.

April 23, 2015.

(Inderjit Singh)
Judge

hsp