

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

**RSA No. 1981 of 2015 (O&M)**

**Date of decision: 12.08.2015**

Raj Kumar and others

... Appellants

versus

Satpal Singh and another

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Rajesh Bansal, Advocate for the appellants.

**K.Kannan, J.**

The plaintiff's suit for injunction was rested on a contention that he had purchased the property along with one Hukam Chand from Hukami, the father of the 1<sup>st</sup> defendant through a registered sale deed dated 19.11.1991. It was also his further contention that Hukam Chand who is the 7<sup>th</sup> defendant in suit had executed an agreement of sale in respect to his share subsequently on 30.11.2005 and since then he had been in possession of the whole of the property. The 1<sup>st</sup> defendant contended that the alleged sale executed by the father was forged and fabricated and the 7<sup>th</sup> defendant filed a statement adopting the statement filed by the 1<sup>st</sup> defendant. The 7<sup>th</sup> defendant however later remained ex-parte and did not come to the Court to contest the plaintiff's assertion for joint purchase by the plaintiff along with 7<sup>th</sup> defendant. At the trial Court, the plaintiff had filed only the photocopy of the sale deed and the Court found that it was not capable of being acted and the suit was dismissed. At

the Appellate Court, the plaintiff filed an application for reception of the original sale deed and set out an explanation as to why he could not produce the same at the trial Court. The contesting defendant supported the judgment of the trial Court to the effect that mutation had not been effected pursuant to the sale deed purchased by the plaintiff which was a clear pointer to the fabricated nature of the document.

The Appellate Court, while disposing of the appeal and modifying the judgment of the trial Court, held that the mutation itself does not confer title and the document filed by the defendant Exhibit-D1 which was a certified copy showing the property to still stand in the name of his father could not be used for assessing the ownership. The property was a vacant land and on the basis of the sale deed, the Court acted on a recital of handing over possession as contained in the document and granted the relief of injunction.

In respect of vacant lands, the possession follows title. If the plaintiff placed his reliance on a registered sale deed and the defendant was denying the sale, the Court could have even framed an issue relating to the validity of the sale. The defendant who is assailing the sale by his father as forged and fabricated ought to have also exercised diligence to force an issue regarding the validity of the sale. If the Court's attention was therefore, not brought to assessing its validity and the Court was merely considering the issue on whether injunction could be granted, it confined itself to the recital in the sale deed and proceeded to grant a relief of injunction. The manner of disposal has allowed for a defendant to still plead that the sale is not valid and if there were to be any adjudication in

future, the decision rendered by the Appellate Court through a judgment on 08.04.2015 could still not conclude the issue regarding title. Both parties were prepared to go for a trial only for an issue of injunction and as it now stands the Appellate Court has granted the relief on the basis of a sale and its recital therein. I cannot fault the approach of the Court in the manner in which the parties allowed for the trial to progress and restricted the judicial appraisal to be taken only for the consideration of whether injunction should be granted or not. I cannot take an argument that the joint purchaser Hukam Chand, also supported the defendant's stand about the so-called invalidity of the sale as obtaining any credible value since he did not take courage to go to Court and subject the plaintiff to cross-examine on an assertion by him that there was no joint sale. If we must consider the transaction of the year 1991 and its validity, the Court was entitled to make inference of the transaction being brought about in its natural course subject of all legal formalities and restricted only for the relief of injunction. So long as the title itself was not decided I do not think the defendant could treat himself as aggrieved and if he was taking a chance that the father never executed such a document, it would be open to him to assail the transaction in the manner possible. I will not make any intervention to the decree for injunction granted on the grounds set forth in the Appellate Court judgment that raises no substantial question for intervention. The appeal along with application is dismissed.

12.08.2015

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**(K.KANNAN)****JUDGE**