

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 2376 of 2015 (O&M)
Date of decision:- 10.07.2015

Rajender Singh

...Appellant

Versus

Satish & anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J.P. Sharma, Advocate
for the appellant.

RITU BAHRI J.

Plaintiff-Appellant (for short 'the appellant') is in second appeal against the concurrent finding of fact recorded by both the Courts below whereby the suit filed by the appellant for permanent injunction restraining the defendants/respondents from interfering into peaceful possession of the appellant, was dismissed.

Appellant had purchased the land measuring 03 Marla comprised in khewat No. 47 Khatoni No. 56 situated in village Paldi Panihara around 5/6 years ago from the respondents for total sale consideration of Rs.30,000/-. Since the time of purchase, the appellant has raised construction of his residential house. The appellant had obtained the

electricity connection in the suit property. The respondents had purchased 1 kanal of land from Vijay Singh and Birender Singh comprised in Khewat No. 47 Khatoni No. 58 in village Paldi Panihara for total sale consideration of Rs.2 lacs on the basis of working (Tehrir) and at that time, respondents approached the appellant for purchase of 3 marla land out of the aforesaid land since they were in dire need of money. The appellant entered into agreement to sell with respect to land measuring 03 marlas for total sale consideration of Rs.30,000/- and entire amount of sale consideration was paid by the appellant to respondent No. 1 Dharampal in the presence of witness Sampat Ram and Om Parkash. On assurance given by the respondents that they will execute the sale deed in favour of the appellant when they obtained the registered sale deed in their favour, he raised construction and started living with family members.

The trial Court and the lower Appellate Court after going through the entire evidence led by the parties, dismissed the suit of the appellant on the ground that execution of the oral agreement could not be proved by the appellant and merely on the oral testimony of P.W.1 Sampat Ram and P.W.2 Om Parkash which is not corroborated by any other evidence on record, the oral agreement to sell or passing of consideration of Rs.30,000/- from the appellant to

respondent No. 1 was not held to be established on record. Further the appellant had not established that Dharampal was the owner of the land subject matter of agreement to sell and was competent to transfer the possession of the suit land in favour of the appellant. The alleged writing/tehrir as per which respondent No. 1 purchased the land from Vijay Singh and Birender Singh was placed on record and even the date month or year of execution of such writing/affidavit was also not forthcoming on record. Further respondents have placed on record certified copy of sale deed dated 07.12.2005 (Ex DW1/A) vide which respondent Nos. 2 and 3 have purchased the land measuring 18 marlas including suit land measuring 03 marlas from Vijay Singh and Birender Singh. The appellants also examined Ved Prakash Deed Writer as D.W.2 who categorically deposed that that the sale deed dated 07.12.2005 was scribed by him at the instance of the parties and was duly entered in his register of deed writer. The sale deed was held to be registered document, which has not been disputed by Vijay Singh and Birender Singh.

After going through the judgments passed by both the Courts below, the agreement to sell with respect to land measuring 03 marlas for total sale consideration of Rs.30,000/- has not been proved by the appellant be leading

cogent evidence. The execution of the agreement to sell could not be proved merely on the oral testimony of P.W.1 Sampat Ram and P.W.2 Om Parkash which is not corroborated by any other evidence on record. Dharam Pal who sold the land to the plaintiff was not proved to be owner of the land and at the same time, the defendants had led sufficient evidence to show that sale deed dated 07.12.2005 (Ex DW1/A) to show that respondent Nos. 2 and 3 have purchased the land measuring 18 marlas including suit land measuring 03 marlas from Vijay Singh and Birender Singh. The appellants also examined Ved Prakash Deed Writer as D.W.2 who categorically deposed that that the sale deed dated 07.12.2005 was scribed by him at the instance of the parties and was duly entered in his register of deed writer. Hence, the suit of the appellant has rightly been dismissed by both the Courts below.

No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

July 10, 2015
G Arora

(RITU BAHRI)
JUDGE