

123

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

RSA-2931-2015 (O&M)  
Date of Decision: 24.09.2015

Shadi Ram

.....Appellant

Vs

Mohan Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Bhag Singh, Advocate  
for the appellant.

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1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

**RAJ MOHAN SINGH, J. (Oral)**

[1]. Defendant No.4 is in second appeal. Suit for declaration was filed by the plaintiffs namely Mohan Singh and Nasib Singh on the ground that they are owners in possession of 47 *Kanals* 1 *Marla* of land and the order dated 21.08.1997 passed by the Joint Secretary (Rehabilitation)-cum-Settlement Commissioner, Haryana, Chandigarh is null and void and subsequent order dated 29.11.2001 passed by Assistant Collector, IInd Grade, Saha on the basis of aforesaid order is also null and void. Plaintiffs claimed themselves to be *bona fide* purchasers for consideration.

[2]. Tilku was a landless Harijan. State of Haryana leased out 93 *Kanals* 18 *Marlas* of land to him. Possession was also given to

him vide *Rapat Roznamcha* dated 11.09.1965. Since then he was cultivating the suit land.

[3]. On 01.03.1982, Tilku moved an application for transfer of land so leased out to him under the press note issued by the State of Haryana. Defendant No.1 directed him to surrender the possession over excessive land as under Government instructions, a person could have possessed only 5 standard acres of land. Resultantly, Tilku surrendered the excess land in favour of the defendant No.1. However, conveyance deed could not be executed due to some stay passed by the civil Court. Application of Tilku was kept pending for transfer on the basis of Government instructions dated 10.11.1981, till vacation of stay order passed by the civil Court.

[4]. On 30.01.1992, Tilku expired and thereafter legal heirs of Tilku namely Shadi Ram, Shiv Ram defendants No.4 and 5 respectively and others filed application along with affidavit in the year 1993. The said application was entertained by the Government on 21.12.1993 and resultantly, an order dated 02.09.1994 was passed by Tehsildar, Sales against payment of Rs.56,000/- for transfer of land in favour of legal representatives of Tilku.

[5]. The aforesaid sale was confirmed on 02.09.1994 itself and accordingly mutation No.500 was sanctioned on 12.12.1997. Thereafter one of the son of the Tilku namely Shiv Ram was not shown as son of Tilku. Both defendants No.4 and 5 filed civil suit claiming 5/12<sup>th</sup> share each in the land so allotted to Tilku. The said

suit was decreed on 03.08.1995 and mutation was also sanctioned.

[6]. Thereafter defendants No.4 and 5 sold the suit land to the plaintiffs on 08.02.1996 for a total sale consideration of 4,99,500/- and mutation was also sanctioned. Possession in favour of Tilku ultimately was found to be illegal by the Joint Secretary, Rehabilitation-cum-Settlement Officer, Haryana and the same was cancelled on 21.08.1997, on the ground that Tilku could not prove that he was lessee over the Government land since 1965 onward.

[7]. The aforesaid order dated 21.08.1997 was assailed in the civil suit by the plaintiffs and the same has been set aside and suit has been decreed which has been affirmed by the Appellate Court as well. The contention of the appellant that instead of sale deed dated 08.02.1996, they executed mortgage deed and not the sale deed has been found to be non-existent with reference to facts and evidence on record. No fraud could be established by the appellant.

[8]. The aforesaid plea did not find favour by both the Courts below on the basis of available evidence. Execution of sale deed dated 08.02.1996 has been proved with reference to evidence. Plaintiffs were found to be *bona fide* purchasers.

[9]. The questions of law as formulated in para no.12 of grounds of appeal have no application inasmuch as that the judgments and decrees passed by the Courts below cannot be said to be suffered with any perversity, nor are found to have been suffered with any jurisdictional error or misreading of evidence.

[10]. Jurisdiction of civil Court cannot be said to be barred in view of the fact that once the Authorities act illegally, then in that eventuality civil Court has got jurisdiction under Section 9 CPC. Reference can be made to **Gurbax Singh s/o Chanda Singh vs. The Financial Commissioner & another, 1991 PLJ 190, AIR 1991 SC 435.**

[11]. Consequently, this appeal is found to be totally bereft of merit and the same is accordingly dismissed.

Sept. 24, 2015  
*Atik*

**(RAJ MOHAN SINGH)**  
**JUDGE**