

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3048 of 2015 (O&M)
Date of Decision: July 02, 2015

Jagira through LRs

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ajay Singla, Advocate
 for the appellant.

INDERJIT SINGH, J.

Appellant-plaintiff Jagira through his LRs has filed this regular second appeal against respondents-defendants State of Punjab, Field Kanungo, Patwari and proforma-respondent Jaswant Singh, challenging the impugned judgment and decree dated 04.01.2011 passed by learned Addl. Civil Judge (Senior Division) Kapurthala vide which the suit filed by the plaintiff-appellant for declaration and permanent injunction was dismissed and also the judgment and decree dated 12.12.2014 passed by learned District Judge, Kapurthala vide which the appeal filed by the appellant was dismissed.

The brief facts of the case are that plaintiff-appellant filed a suit against defendants-respondents for declaration and permanent injunction to the effect that he is owner in possession of the suit land.

At the time of purchasing the suit land through Arjan Singh, plaintiff placed reliance upon the entries in the jamabandi for the year 1979-80 wherein said Arjan Singh was shown to be owner of the suit property and the plaintiff being bonafide purchaser, purchased the suit property on 29.05.1984 from Arjan Singh as the mutation No.196 dated 30.06.1982 was also sanctioned earlier in the name of Arjan Singh vendor. It is also the case of the plaintiff that suit land was allotted to Arjan Singh but no condition has been mentioned in the revenue record that he cannot sell the land within 10 years. The plaintiff got a notice from defendant No.1-State of Punjab to the effect that Arjan Singh sold the property in dispute before the expiry of ten years and defendants No.2 and 3 i.e. Field Kanungo and Patwari, gave information to the plaintiff that they would take the possession of the suit land from him as per order dated 01.08.2003 passed by defendant No.1. It is further alleged that order dated 01.08.2003 is also illegal, null and void and not binding.

On the other hand, the case of the defendants in the written statement is that no appeal was filed by the plaintiff against the order dated 01.08.2003 passed by defendant No.1, who is competent authority. The property in dispute was allotted to Arjan Singh being a schedule caste as per Nazul Act/Rules. It was stipulated that the allottee should not alienate the property in dispute permanently and temporarily except with the permission in writing of the State Government, for a period of ten years from the date of issuance of the sale certificate but Arjan Singh in contravention of the conditions

mentioned in sale certificate, alienated the property in dispute and the allotment of the said land has been cancelled and the possession has already been taken by the Punjab State.

Learned Addl. Civil Judge (Senior Division), Kapurthala, while discussing the evidence on record, held that the plaintiff is not a bonafide purchaser and the property has been sold in violation of the terms and conditions mentioned in sale certificate. It is further held that the plea of the plaintiff is not sustainable as the buyer of the property is always supposed to be careful while purchasing the property. It was incumbent upon the plaintiff that before purchasing the property, he could have very well ascertained the factum of the nature of the property. The Court also held that merely the plea of plaintiff that he had gone through the entries in the revenue record and also gone through the mutation proceedings, would not suffice especially when there is no other cogent and corroborative evidence in support of plaintiff's version. Learned Addl. Civil Judge (Senior Division) Kapurthala, on the basis of the evidence, dismissed the suit filed by the plaintiff vide judgment and decree dated 04.01.2011. Appellant-plaintiff filed appeal and learned District Judge, Kapurthala, also upheld the findings given by learned Addl. Civil Judge (Senior Division) Kapurthala and dismissed the appeal vide judgment and decree dated 12.12.2014.

Aggrieved from the above-said judgments and decrees, present regular second appeal has been filed by the appellant-plaintiff.

Learned counsel for the appellant argued that the findings

of the Courts below are incorrect and against the evidence as the plaintiff-appellant is bonafide purchaser.

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

From the record, I find that as per the case of the plaintiff itself, the land has been allotted to Arjan Singh by the State of Punjab. The plaintiff has only seen the jamabandi for the year 1979-80, in which, there was entry of mutation in favour of Arjan Singh regarding the allotment of the land as per mutation No.196 dated 30.06.1982, which means that in the ownership column, the land was shown as Nazul land. Even if it is taken that plaintiff has only seen the revenue record, then even also on the basis of the jamabandi, the plaintiff is to make enquiries regarding the allotment letter but there is no evidence on the record that he has seen the allotment letter. It is, in no way, necessary that terms and conditions of the allotment letter should be mentioned in the mutation or in the revenue record. The plaintiff is the purchaser and he is to make reasonable enquiries regarding the property which he is going to purchase. There is nothing on the record that any enquiry has been made by the plaintiff from anybody. There is no other cogent and corroborative evidence to show that plaintiff is a bonafide purchaser.

As Arjan Singh has alienated the suit property in violation of the terms and conditions as mentioned in sale certificate, therefore, the allotment has been cancelled by defendant No.1 vide order dated 01.08.2003. That order has become final as the plaintiff has not filed

any appeal against that order. In the plaint, plaintiff also stated that plaintiff got a notice from defendant No.1, which means that plaintiff was having opportunity to challenge that order before the competent authority.

In view of the above discussion, I find that the findings given by both the Courts below are correct and as per law. In no way, it can be held that the Courts below have misread the evidence or the findings are perverse. The findings of the Courts below are concurrent, as per evidence and do not require any interference from this Court and the same are upheld. No substantial question of law arises in the present regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

July 02, 2015
Vgulati

(INDERJIT SINGH)
JUDGE