

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.3335 of 2015 (O&M)
Date of Decision.12.08.2015

Sarpreet Singh and another

.....Appellants

Versus

State Bank of India

.....Respondent

Present: Mr. Ranjit Sharma, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The second appeal is at the instance of plaintiff who filed the suit for injunction to restrain the defendants from in any manner interfering with the alleged peaceful possession of the plaintiff in relation to the property measuring 86.66 sq. yards in specific khasra numbers. The plaintiff claimed right to the property as a purchaser through registered document dated 29.05.2009. It was the contention of the plaintiff that one Nirmal Kaur wife of Joginder Singh had sold the very same property to Smt. Darshana through registered sale deed and Darshana in turn had sold the property to one Phoolan Devi by registered sale deed. The contention was that the purchase by the defendant was not valid and she had no right over the same. In view of rival sales tracing the title to different persons, it became essential for the Court to consider whether the plaintiff's sale was true and whether the vendors had competency to execute the sale in their favour. The court

held that in respect of the very same property, there had been a mortgage in favour of the Bank and the Bank had put the property for sale in enforcement of the claim under the SARFAESI Act and the property had been purchased by Darshana at the auction and the auction purchaser had sold the property to the defendant's predecessor which in turn was sold to the defendant. It was clear case where the plaintiff's predecessor had lost the right to the property through auction sale in enforcement of debt and the plaintiff's vendor had no subsisting right when he sold the property in plaintiff's favour. The two Courts have adverted to the relevant provisions of law giving primacy of right to a mortgagee creditor and the entitlement of the financial institution to bring the property for sale for realization of the debt. There is no error for interference in the second appeal against two concurrent judgments holding that the plaintiff is not entitled to the suit property.

2. The second appeal is dismissed as involving no substantial question of law for consideration.

(K. KANNAN)
JUDGE

August 12, 2015
Pankaj*