

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103

*C.M. Nos.8967-C of 2015 & 409-C of 2014
RSA No. 179 of 2014*

Date of decision: 04.12.2015

Bhagirath Lal (deceased) through his L.Rs.

....APPELLANTS

VERSUS

Rajiv Kumar Nanda and another

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Surinder Mohan Sharma, Advocate,
for Mr. Krishan Singh Dadwal, Advocate,
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 8967-C of 2015

Prayer in this application is for impleading the legal heirs of the deceased Bhagirath Lal-appellant No.1, who expired on 05.11.2014 (copy of the death certificate is appended as Annexure A-1) leaving behind the legal heirs, details of whom have been mentioned in para-3 of the application. The application is supported by an affidavit of Ashok Kumar son of Bhagirath Lal.

For the reasons mentioned in the application, the same is allowed. The legal heirs of the appellant-Bhagirath Lal deceased, as mentioned in para-3 of the application, are brought on record by impleading them as party for the purpose of the present litigation only subject to just exceptions. The amended Memo of Parties appended along with the application is taken on record. Registry is directed to place the same at the appropriate stage of the case.

RSA No. 179 of 2014

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Junior Division), Phagwara dated 19.03.2012, by which the suit for mandatory injunction preferred by the appellants-plaintiffs for seeking possession of House No. BXXVI/137, Mohalla Atishbajian, Adjacent Bari Masjid, Phagwara on the ground that they are owners of the property as the said house was bought and constructed by Sheela Wanti, predecessor-in-interest of the appellants-plaintiffs, vide registered sale deed dated 06.03.1965 from one Lok Nath and the said house was given on lease to the respondents-defendants in the year 1993, which has been revoked, stands dismissed, appeal against which preferred by the appellants-plaintiffs stands dismissed by the Additional District Judge, Kapurthala on 25.09.2013.

2. It is the contention of the learned counsel for the appellants that the findings recorded by the Courts below are not sustainable as the Courts have not properly appreciated the evidence, which has been brought on record. He contends that the sale deed, which has been produced in defence by the respondents-defendants, dated 24.06.1967 is not a registered sale deed. He contends that as per the sale deed dated 06.03.1965, which was in favour of Sheela Wanti, who died on 27.01.1994, the property was purchased for ₹ 1000/-, which was more than ₹ 100/- and, therefore, the same was got registered. Since the alleged sale deed dated 24.06.1967 is for an amount of ₹ 99/-, which is much lesser than the purchase price of Smt. Sheela Wanti, the same cannot be accepted and that too, when the sale deed is subsequent in time i.e. after 2 years. He, thus, contends that the title based on such document, as has been sought to be projected by the respondents-

defendants, is unsustainable. That apart, he contends that the respondents-defendants being lessees of the property could not continue after the lease deed has been cancelled in their favour and, therefore, the license having been ceased to exist in their favour, the suit preferred by the appellants-plaintiffs deserves to be decreed.

3. I have considered the submissions made by the learned counsel for the appellants and with his able assistance, have gone through the impugned judgments and decree.

4. A perusal of the judgments passed by the learned Courts below clearly establishes that the parties are closely related to each other through the father of respondents-defendants i.e. Krishan Lal being the paternal uncle of plaintiff No. 2-Ashok Kumar and brother-in-law of plaintiff No. 1-Bhagirath. The property was initially purchased by the sister of Krishan Lal-predecessor-in-interest of the respondents-defendants. Since there was a relationship of brother and sister and it primarily was a sale in favour of the brother by the sister, the sale thereof at the rate of ₹ 99/- cannot be said to be illegal, merely because she had purchased it for an amount of ₹ 1000/-. This, the Court below asserts, especially in the light of the fact that the respondents-defendants have been able to prove by evidence especially the attesting witnesses, the said unregistered sale deed in favour of Krishan Lal, predecessor-in-interest of the respondents-defendants. Since the sale consideration of the property was less than ₹ 100/-, the registration thereof was not mandatory and, thus, was a valid piece of document conferring title upon Krishan Lal-predecessor-in-interest of the respondents-defendants. That apart, the possession over the property has also been established by the respondents-defendants since the year 1968 i.e. subsequent to the purchase

of the property by Krishan Lal on 24.06.1967 from her sister Smt. Sheela Wanti. As per the sale deed, the property was an open area and it is after that the construction of the house was carried out by Krishan Lal and that is apparent from the fact that he had obtained the electricity connection on 26.11.1968 Ex. D2/2. The assessment register of the Municipal Committee has been produced, which shows that the tax was being paid since 1972 and the ownership of the property was shown in the name of Krishan Lal. There is overwhelming evidence proving that the property is in the ownership and possession of the respondents-defendants much prior to the date on which, as has been asserted by the appellants-plaintiffs that the house was given on lease i.e. 1993. The findings, thus, recorded by the Courts below cannot be said to be not correct.

5. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

6. In view of the above, finding no merit in the present appeal, the same stands dismissed.

C.M. No. 409-C of 2014

In view of the dismissal of the main appeal, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

December 04, 2015

**(AUGUSTINE GEORGE MASIH)
JUDGE**