

In the High Court of Punjab and Haryana at Chandigarh

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R.S.A. No.1966 of 2014 (O&M)

.....

Date of decision:23.4.2015

Sukhraj and others

.....Appellants

v.

The State of Haryana and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Sushil Bhardwaj, Advocate for the appellants.

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Inderjit Singh, J.

Sukhraj etc.-appellants/plaintiffs have filed this regular second appeal against State of Haryana and others-respondents/defendants challenging the impugned judgment and decree dated 4.12.2013 passed by the learned Additional District Judge, Karnal, dismissing the appeal filed by the plaintiffs against the impugned judgment and decree dated 15.12.2011 passed by the learned Civil Judge (Junior Division), Karnal, vide which the suit filed by the plaintiffs has been dismissed.

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

From the record, I find that first of all concurrent findings have been given by the Courts below which have been passed after correctly

appreciating the evidence. Secondly, I find that no substantial question of law arises in this regular second appeal. The case of the plaintiffs before the lower Court is that the order dated 14.6.2005 passed by the learned Sub Divisional Magistrate, Karnal, exercising the powers of Collector, Karnal, whereby the plaintiffs have been ordered to be evicted from their respective parcels of land under Sections 4, 5 and 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery), Act, 1973, as well as directions given to the plaintiffs to pay damages for alleged illegal use and occupation of the land and order dated 18.4.2007 passed by the learned Commissioner, Rohtak Division, Rohtak, whereby the appeal filed by the plaintiffs was dismissed, are illegal, null and void and not binding upon the rights of the plaintiffs with consequential relief of permanent injunction restraining the State of Haryana and its functionaries from taking possession of the land in question from the plaintiffs, in any form or manner, as well as from recovering any amount.

It is mainly case of the plaintiffs that they purchased the land in the year 1990 vide separate sale deeds after seeing the revenue record in which their fathers were shown as owners in possession on the basis of ex parte civil Court decree dated 5.6.1984 passed by the then learned Sub Judge Ist Class, Karnal.

At the time of arguments, learned counsel for the appellants argued that the appellants are bona fide purchasers for consideration and they were having no notice regarding the litigation pending. He argued that the ex parte judgment and decree stands set aside by Supreme Court in the

year 1994 and there was no entry regarding the same in the revenue record.

After hearing learned counsel for the appellants and going through the record, I find that the land was owned by State of Haryana. The vendors of the plaintiffs filed a suit against the State of Haryana, which was ex parte decreed vide judgment and decree dated 5.6.1984. Then an application was filed by State of Haryana for setting aside the decree, but that was dismissed by the trial Court as well as appellate Court and as well as the High Court, but the Hon'ble Supreme Court accepted the petition and remanded back the matter to the learned trial Court and the judgment and decree dated 5.6.1984 was set aside. The learned Additional Civil Judge (Senior Division), Karnal, vide judgment and decree dated 17.10.1996 decided the case in favour of the State of Haryana. The appeal filed against that judgment was also dismissed.

The only point argued in this case is that the plaintiffs are bona fide purchasers. A perusal of the record shows that no cogent evidence has been produced by the plaintiffs to show that they have made inquiries from the Patwari or from the villagers or from the Sarpanch etc. or the owners of the neighbouring land, which means that no reasonable inquiry has been made before purchasing the land and litigation was already going on as proceedings at that time were pending for setting aside the ex parte decree. All these facts show that the plaintiffs/appellants are not bona fide purchasers. Otherwise also, the learned Additional Civil Judge (Senior Division), Karnal, in the judgment has discussed the law that where lis was pending between the parties, the plea of bona fide purchasers is not

available to the plaintiffs. Further more, even if it is taken that the plaintiffs have seen the revenue record, then there may be the mutation sanctioned in favour of the vendors of the plaintiffs on the basis of the ex parte decree. In view of this mutation also, the plaintiffs are supposed to make inquiry regarding the litigation whether any appeal or other proceedings relating to that judgment are pending or not. Therefore, in no way, the plaintiffs can be held as bona fide purchasers.

Therefore, from the above discussion, I find that the concurrent findings of fact have been recorded by the Courts below and the same are correct and as per and law which do not require any interference from this Court and same are upheld. No substantial question of law arises in this regular second appeal.

Finding no merit in the regular second appeal, the same is dismissed.

April 23, 2015.

(Inderjit Singh)
Judge

hsp