

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 4738 of 2015 (O/M)
Date of decision : 22.12.2015

Shankar Lal

..... Appellant

Versus

Bhagirath and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sharad Aggarwal, Advocate, for,
Mr. Anil Kumar Rana, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 28.4.2015, passed by the Additional District Judge, Gurgaon, affirming the judgment and decree dated 28.1.2014, passed by the learned Civil Judge (Junior Division), Pataudi, vide which the suit of the plaintiff (respondent No. 1 herein) for declaration and permanent injunction, was decreed with costs.

Briefly stated, the plaintiff/respondent No. 1 claims that he had purchased the disputed property from defendant No. 2 (respondent No. 2 herein), vide registered sale deed bearing Vasika

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No. 7848, dated 4.9.1996 for Rs. 59,500/-. The plaintiff/respondent No. 1 approached the Halqa Patwari for sanctioning the mutation, but the same was not sanctioned for the reasons best known to him. Defendant No. 2/respondent No. 2, vide sale deed bearing Vasika No. 3705, dated 18.6.1999, again sold the same land to defendant No. 1 (appellant herein) by taking the benefit of wrong entries in the revenue record and he also got the mutation sanctioned.

I have heard the learned counsel for the appellant and have also carefully gone through the file.

The learned counsel for the appellant has argued that appellant/defendant No. 1 is a bonafide purchaser and that the suit is time barred as the sale deed of year 1999 has been challenged in the year 2008.

I am of the view that question of bonafide purchaser does not arise as the title flows from the sale deed. Since defendant No. 2 was not left to be the owner of the land, thus he did not have right to alienate the same. Therefore, once the seller did not have any title, defendant No. 1/appellant will not get any title. Therefore, the question of bonafide purchaser will not arise. Regarding the limitation, the plaintiff/respondent No. 1 was not notified about the sale deed executed by defendant/respondent No. 2 in favour of defendant No. 1/appellant in the year 1999, nor he was notified when the mutation was sanctioned. The suit is based on title.

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Therefore, whenever the plaintiff/respondent No. 1 came to know that defendant No. 2 without title again sold the land, he could challenge the same. The mutation does not confer any title. The entries in the revenue record are only for the limited purpose of collection of land revenue and do not create any title. Once it is found that there is prior sale deed in favour of plaintiff/respondent No. 1, the subsequent sale by defendant No. 2 in favour of defendant No. 1 was rightly set aside. There is no illegality or infirmity in the findings recorded by both the Courts below. No substantial question of law arises in the present regular second appeal. Hence, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

22.12.2015
sjks