

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Regular Second Appeal No. 3255 of 2014 (O&M)
Date of decision: 6.8.2015

Sushila Rani

.. Appellant

v.

Ram Sarup and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ashish Gupta, Advocate for
Mr. Vikram Singh, Advocate for the appellant.

...

Rajesh Bindal J.

The defendant has filed the present appeal impugning the concurrent findings of fact recorded by both the courts below, whereby the suit filed by the respondents-plaintiffs for declaration claiming that the land measuring 15 marlas, comprised in Khewat No. 33, Khatoni No. 55, Khasra No. 23/14 min towards West (0-7) and 17 min towards West (0-8), situated in village Pinjora, Tehsil Jagadhri, District Yamuna Nagar, HB No. 363 is a part of passage, was decreed.

The original source of land in possession of the appellant is sale deed dated 14.1.1958. It is from there the rights flow to the appellant. Though in between there were number of sale transactions but the principle is that a vendor cannot transfer a better title than what he himself has. In the sale deed dated 14.1.1958, vide which 30 kanals and 14 marlas of land was sold, it has been specifically mentioned that 15 marlas out of that has been kept as a passage. Meaning thereby, the title of ownership transferred in favour of the vendor to vendor-appellant vide sale deed dated 14.1.1958 was only for 29 kanals and 19 marlas. It is that land, which could be

transferred in favour of the subsequent vendees.

With the aforesaid document on record, in my opinion, no illegality has been committed by both the courts below in decreeing the suit filed by the respondents-plaintiffs holding that 15 marlas of land shall form as a passage, title of which could not be transferred in the name of the appellant. The findings recorded are pure and simple findings of fact, giving rise to no question of law, much less a substantial question of law.

Accordingly, the appeal is dismissed. Consequently, the accompanying application is also dismissed.

(Rajesh Bindal)
Judge

6.8.2015
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