

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**CM Nos.2226-27-C of 2015 in/and  
RSA No.756 of 2015  
Date of Decision: 02.03.2015**

The Tehsildar (Sales) Ambala  
now at Jagadhri, District  
Yamuna Nagar and others

..... Appellants

Versus

Ram Parkash and others

..... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Manish Bansal, DAG, Haryana.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

**RAJIV NARAIN RAINA, J.(Oral)**

**CM No.2226-C of 2015**

This is an application for condonation of delay of 190 days in filing the appeal.

The delay of 190 days in filing the appeal is condoned not on the ground that reasons supporting the prayer are not germane to the consideration but that there is no merit in the appeal.

For these reasons, the delay is condoned.

The application stands disposed of.

**RSA No.756 of 2015 (O&M)**

This is an appeal against the judgment dated May 23, 2014 passed by the District Judge, Yamuna Nagar at Jagadhri reversing the decree in favour of the plaintiff and against the State defendant. The Tehsildar (Sales)

Ambala, allotted evacuee property to Vasudev in lieu of property left behind in Pakistan during the turbulent days of partition when Pakistan was born in 1947. Vasudev sold the corpus to third party plaintiff on February 04, 2003. Vasudev was put to notice by the department for the first time in proceedings for cancellation of the allotment of corpus on June 05, 2003, and, therefore, knowledge of cancellation proceedings cannot be imputed to Vasudev prior to the date of sale in 2003. It is in these circumstances that the learned District Judge, Yamuna Nagar has reversed the decision of the trial Court and granted protection to the plaintiffs, who are purchasers of suit property through Vasudev, of the provisions of Section 41 of the Transfer of Property Act, 1882 (for short "the Act") holding that plaintiffs are bona fide purchasers for valuable consideration without notice. It matters little in law whether the cancellation proceedings are continuing as those can affect only Vasudev but not third parties who are a bonafide purchasers, including onward sale by Daljit Singh – respondent No.5 who further sold the suit property to respondent Nos.1 to 3, parties in the present appeal who are protected also by the shield of Section 41 of the Act.

There would be another fair reason to maintain the status of the plaintiffs with respect to their sale deeds which is the principle of remoteness of transactions of sale and purchase. They are bona fide purchasers of corpus property for valuable consideration without notice of cancellation proceedings initiated by the State against Vasdev etc. Date of knowledge of cancellation proceedings is in the domain of facts and is not readily inferential from the evidence which has been correctly appreciated as not imputable on the present respondents by the lower appellate court.

Therefore, I do not find any error of law or fact in the well considered judgment of the learned District Judge, Yamuna Nagar who has reached the correct conclusion on the facts and evidence presented and adduced by the parties before the trial court and rightly set aside the judgment of the first court.

No interference is called for against the judgment of reversal. No question of law much less substantial arises in this appeal, or any one of those proposed by the appellant State in the memorandum; and the appeal is, therefore, dismissed.

**(RAJIV NARAIN RAINA)  
JUDGE**

**02.03.2015**  
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