

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4568 of 2014 (O&M)
Date of Decision : 05.10.2015

Om Parkash

....Appellant

Versus

Kanso and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.S. Nagra, Advocate
for the appellant.

Surinder Gupta, J. (Oral)

Heard.

The suit was filed by Om Parkash and others claiming themselves to be legal heirs of Attu @ Atma Ram and Thakur Singh, who died issueless. Plaintiff-appellant claimed 1/5th share as legal heir of Attu @ Atma Ram and 1/4th share left by Thakur Singh son of Harhi, in the suit land as fully described in the headnote of the plaint. Dawinder Singh and Kartar Singh defendant-respondents no. 13 and 14 claimed ownership and took a plea that they are *bona fide* purchasers of the suit land.

Before this suit, another suit No. 590 of 22.08.1995 was filed by Swaran Lal and 16 other heirs of Attu @ Atma Ram and Thakur Singh claiming estate left by Attu @ Atma Ram and Thakur Singh. In that suit, Dawinder Singh and Kartar Singh defendants 12 and 13, in the instant suit were also impleaded as defendants no. 14 and 15, and a specific issue as issue No. 1-A was framed as follows:-

“1-A. Whether the defendants no. 12 and 13 are bona fide purchasers for consideration vide sale deed dated

24.01.1995, without having any knowledge/defects regarding the title of defendants no. 1 to 3 and in land measuring 4 kanals 15 marlas as detailed in preliminary objection no. 6 of amended written statement. So its effect? OPD.”

While recording findings on issue no. 1-A, it was observed that both are proved to be *bona fide* purchasers for valuable consideration through sale deed dated 24.01.1995. The finding recorded in that judgment dated 11.12.2001 (Ex. D-2) was affirmed by the Ist Appellate Court vide judgment Ex. D-4 produced on the file.

Learned counsel for the appellant submits that as per his instructions no further appeal was filed in that suit. The findings of the Court in suit No. 590 dated 22.08.1995 filed by Swaran Lal and others, as such, have attained finality. The plaintiffs who are sons of Ishar Dass and Mohan Lal and grandsons of Attu @ Atma Ram have also claimed similar relief pertaining to the same property which was subject matter of judgments Ex. D-2 and D-4. Once the matter that Dawinder Singh and Kartar Singh defendant-respondents no. 13 and 14 are *bona fide* purchasers of suit land has attained finality, this also protects the vendees of Dawinder Singh and Kartar Singh. Both the Courts below have non-suited the plaintiffs on the ground that the principle of constructive *res judicata* applies against them. The suit of the plaintiffs was also not maintainable against Dawinder Singh and Kartar Singh who are impleaded as defendants no. 14 and 15 in the suit.

On perusal of paper-book and the judgment of Courts below, I find no legal or factual infirmities therein calling for interference. No question of law, what to talk of substantial question of law requiring determination, arises in this appeal, which has no merit.

Dismissed.

October 05, 2015
jk

(SURINDER GUPTA)
JUDGE