

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No.5445 of 2014(O&M)
Date of Decision: 27.04.2015

Satbir and others

..... APPELLANTS

VERSUS

Kunti Devi and others

..... RESPONDENTS

PRESENT: - Mr. S.N. Gaur, Advocate
for the appellants.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

SHEKHER DHAWAN, J.

The present Regular Second Appeal against judgment and decree dated 01.07.2014 passed by the Additional District Judge, Gurgaon whereby appeal against judgment and decree dated 27.07.2013 passed by the Civil Judge (Jr. Divn.), Gurgaon was dismissed.

For convenience sake, hereinafter, reference to the parties is being made as per their status in the Civil

Suit.

The detailed facts are already recapitulated in the judgments of the courts below and are not required to be reproduced. In brief, the facts relevant for disposal of this second appeal are to the effect that plaintiffs had filed suit for declaration with consequential relief of permanent injunction and mandatory injunction on the ground that they had purchased suit land from defendants No.4 to 9 and entire sale consideration was paid and physical possession of the land was taken. The sale deed was written on the stamp paper on 14.10.2005 and the same was entered in the register of the document writer but because of the closing of the working hours of the office of the Sub-Registrar, the same could not be registered. Defendants No.4 to 9 assured the plaintiffs to get registered the same on the next working day and signatures of defendants No.4 to 9 were available on the said document. Later on defendants No.4 to 9 became dishonest and sold the suit land to defendants No.1 to 3. Defendants No.6, 8 and 9 sold the suit land to defendant No.2 by way of registered sale deed dated 08.06.2006 and defendant No.2 further sold the suit land to defendant No.1 vide registered sale deed dated 31.07.2006. So, the aforesaid sale deed in favour of defendants No.1 to 3 are null and void and not binding upon

the plaintiffs.

The defendants contested the suit taking the plea that they were not aware of any agreement of sale between the plaintiffs and defendants No.4 to 9. In fact, defendant No.2 sold the suit property to defendant No.1 and defendants No.4,5 and 7 sold the property to defendant No.3 on the basis of registered sale deed. The plaintiffs never became owners in possession of the suit property. The Revenue record was duly verified by the defendants at the time of purchase of the suit land and there was no defect in the title of the suit property. The suit of the plaintiffs deserves dismissal.

On these facts, the Court of first instance recorded findings of fact that the suit of the plaintiffs is without any merit and the same was dismissed.

The plaintiffs challenged the said judgment and decree by way of first appeal and remained un-successful and, as such, the present second appeal.

Mr. S.N. Gaur, learned counsel for the appellants took the plea that both the Courts below have not appreciated the controversy in true perspective. Learned counsel for the appellants also took the plea that the plaintiffs have proved the payment of sale consideration of ₹29,000/- to defendants No.4 to 9 and the said evidence

has not been considered by both the Courts below. The sale deed Ex.P-4 was duly proved by examining Naveen Kumar as PW-2 and attesting witness Sohan Lal as PW-4. Apart from statement of plaintiff Satbir Singh as PW-5, copy of register of Deed Writer (Ex.P-5) found recorded entry at Sr. No.287 on 14.10.2005 and signatures put by defendants No.4 to 9 clearly establish that sale deed dated 14.10.2005 was duly executed. Still, the Courts below did not place reliance upon oral as well as documentary evidence and returned the findings.

Having considered the submissions made by learned counsel for the appellants and having gone through the record available on file, this Court is of the considered view that the Courts below have rightly recorded the findings that if the plaintiffs had paid entire sale consideration and got the possession and presented paper before the Sub Registrar, the legal remedy was available with the plaintiffs under Sections 23 and 77 of the Registration Act or in the alternative file suit of specific performance for agreement of sale Ex.P-4. The version of the plaintiffs has been rightly dis-believed by the Courts below that sale deed was registered on 14.10.2005 because the plaintiffs failed to take any prompt action but kept on waiting till 19.10.2006.

The version of the defendants No.1 to 3 is specific and clear that title over the suit property was of defendants No.4 to 9 and they had executed sale deed and registered the same. The record of scibe was rightly dis-believed.

The findings recorded by both the Courts below are based on facts of the case and evidence available on file and the said concurrent findings do not call for any interference by this Court by way of present second appeal. There is no substantial question of law involved in this case. So, the present appeal is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

April 27, 2015
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