

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

1. RSA No.2185 of 2012 (O&M)
Date of decision : 01.02.2016

Kuldeep Singh and another

...Appellants

Versus

Bachan Kaur

...Respondent
2. RSA No.2187 of 2012 (O&M)
Date of decision : 01.02.2016

Kuldeep Singh and another

...Appellants

Versus

Bachan Kaur

...Respondent
3. RSA No.2190 of 2012 (O&M)
Date of decision : 01.02.2016

Kuldeep Singh and another

...Appellants

Versus

Bachan Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see

- judgment ?
2. To be referred to reporters or not ?
 3. Whether the judgment should be reported in the Digest ?

Present: Mr. S.P.S. Sidhu, Advocate &
Mr. Harkesh Manuja, Advocate for appellants.
(In all appeals)

Mr. Vikas Singh, Advocate for the respondent.
(In all appeals)

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of three regular second appeals bearing RSA No.2185 of 2012 titled as Kuldeep Singh & another Vs. Bachan Kaur, RSA No.2190 of 2012 titled as Kuldeep Singh & another Vs. Bachan Kaur & RSA No.2187 of 2012 titled as Kuldeep Singh & another Vs. Bachan Kaur filed at the instance of the defendants. For the sake of brevity, facts of the case are taken from RSA No.2185 of 2012. Bachan Kaur-plaintiff instituted three suits challenging following sale deeds:-

- i) Sale deed dated 14.09.2000 registered on 20.09.2000 in RSA No.2185 of 2012
- ii) Sale deed dated 18.09.2000 registered on 20.09.2000 in RSA No.2190 of 2012
- iii) Sale deed dated 18.09.2000 registered on 25.09.2000 in RSA No.2187 of 2012

Claiming declaration and title in the suit property on the basis of the Will dated 22.08.1980. During the pendency of the suit, amendment was sought to claim declaration on the basis of the judgment and decree dated 09.03.1991 passed in civil suit No.16-1 dated 27.02.1991.

Mr. S.P.S. Sidhu, Advocate and Mr. Harkesh Manuja, learned counsel appearing on behalf of appellants submits that amendment after six years of filing of the suit was not admissible as the suit on the basis of the Will dated 22.08.1980 during the lifetime of the father was not maintainable. The appellants are bona fide purchaser for a valuable consideration in pursuance to the aforementioned sale deeds, as on the date of the sale deed, Dyal Singh was recorded as owner. There is no reflection of the change of the ownership in favour of the respondent in the revenue record & on the basis of judgment and decree dated 09.03.1991, valuable right has accrued in favour of the appellant and thus there is illegality and perversity.

Mr. Vikas Singh, learned counsel appearing on behalf of respondent-plaintiff submits that amendment has been allowed on the statement of the appellant-defendants, suffered on 25.02.2009 subject to the payment of cost of ₹700/-, thus, the appellant-defendant cannot be permitted to agitate the amendment of the plaint at this stage of the case. Neither any such ground had been taken in the grounds of appeal before the lower Appellate Court, much less, any application was moved to recall the order dated 27.02.2009. The judgment and decree dated 09.03.1991 valuable right in favour of the plaintiff has accrued and rightly so, suit has been dismissed.

I have heard learned counsel for the parties and appraised the paper book and of the view that appeal deserves to be dismissed on the following reasons:-

The appellants-defendants Dyal Singh is none else but the

father of Bachan Kaur-plaintiff and had not set up the claim challenging the decree aforementioned. He could have easily challenged the sale deed as per provision of Order 6 Rule 4 of the Code of Civil Procedure. Once he did not have right, title or interest in the property, hence could not confer any title on the subsequent purchaser, thus, they do not fall under the expression of “bonafide purchaser” as per Section 41 of the Transfer of Property Act.

Amendment aforementioned has been allowed on the statement of defendant. The order has not been recalled so far. Even the imposition of the cost of ₹700/-, has been received. In view of such situation, the appellant-defendant cannot be permitted to raise the plea.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the courts below, much less, no substantial question of law arises for determination by this Court.

Appeals stands dismissed.

01.02.2016

pawan

**(AMIT RAWAL)
JUDGE**