

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

I.

Regular Second Appeal No.2542 of 2012 (O&M)

Date of decision: 9.5.2016

Swaran Singh and others

... Appellants

Versus

Narinder Singh and another

... Respondents

II.

Regular Second Appeal No.3832 of 2012 (O&M)

Harbans Singh and others

... Appellants

Versus

Narinder Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Naresh Kaushik, Advocate, for
Mr.T.P.S.Bhatti, Advocate,
for the appellants.
Mr.Raman Mohinder Sharma, Advocate,
for the respondents.

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

AMIT RAWAL, J. (Oral)

CM No.10281-C-2012 in RSA No.3832 of 2012

CM for making good the deficiency of court fee is allowed.

CM No.7079-C-2012 in RSA No.2542 of 2012

The delay in filing the appeal is condoned.

RSA No.2542 of 2012

This order shall dispose of two Regular Second Appeals, i.e., RSA No.2542 of 2012 and RSA No.3832 of 2012 as the dispute is between the same parties. The facts are taken from RSA No.2542 of 2012 for convenience.

The plaintiff-appellant is aggrieved against the dismissal of the suit bearing No.146-T of 2004 claiming declaration by setting aside the sale deed No.2067 dated 10.3.2004 regarding the land measuring 10 Marlas comprised in Khewat Khatauni No.99/140, Khasra No.71//5(0-2), 32//27(0-8) situated in village Darangheri, Tehsil Amloh with an alternative prayer for recovery of ₹ 80,000/-, by the learned trial Court as upheld by the lower appellate court whereas Civil Suit No.167 of 2004 filed by defendant No.1 (plaintiff in the aforementioned suit) whereby the appellants have been restrained not to interfere with his peaceful possession.

Mr.Naresh Kaushik learned counsel appearing on behalf of the appellants submits that as per compromise arrived at between the plaintiff and defendant No.1, both the parties were required to execute a sale deed in respect of 10M of land, i.e., a kind of exchange. Though the plaintiff-appellants performed his role as noticed in the execution and registration of the sale deed but the defendants failed to do so and in this context, was constrained to file civil suit. Even the arbitrator who was appointed as per the agreement, arrived at between the parties, deposed in the same terms. Both the courts below did not accept the contentions of the plaintiff-appellants and declined to decree the suit of the appellants and thus, urges this Court to set aside the judgment and decree of both the courts below

being suffering from perversity and fallaciousness by formulating a substantial questions of law as drawn in the memorandum of appeal.

Mr.Sharma learned counsel appearing on behalf of the respondents submits that the sale deed had been executed without any pressure or coercion. There was no other document muchless written agreement. Even the alleged deposition of the arbitrator is not before this Court as no award had been placed on record. Photocopy of the alleged compromise even does not contain the recital of any performance on the part of defendant No.1. The filing of the suit is an act of perversity much less a aggrandization as the prices of the land during the interregnum period increased. It is urged that the findings rendered by both the courts below be affirmed.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is force and substance in the plea of Mr.Sharma that the alleged settlement does not contain a recital of any performance on the part of defendant No.1 in pursuance to the sale deed noticed above, and rightly so, learned trial court granted injunction against the forcible dispossession and interference, invitation in pursuance to the sale deed and relevant entry in the jamabandi has also been acted upon. The so called statement of the arbitrator do not have any substance as no copy of the award has been placed on the record. In my view, the act of filing of the suit was nothing but aggrandization. The suit was based upon alleged fraud but the provisions of Order 6 Rule 4 as noticed were not pressed into service. In my view, both the courts have rendered findings on the basis of oral and documentary evidence which is not liable to be interfered with

R.S.A.No.2542 & 3832 of 2012 (O&M)

: 4 :

much less no substantial question of law arises for consideration before this Court.

No ground for interference is made out and both the appeals are ordered to stand dismissed.

(AMIT RAWAL)
JUDGE

May 9, 2016
Paritosh Kumar