

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4355 of 2013(O&M)
Date of decision : March 3, 2016

Gurnam Singh and another

..... Appellants

Versus

Jeet Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Shrey Goyal, Advocate
for the appellants.

1. Whether reporters of 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?

Amit Rawal, J (oral).
CM No. 11755-C of 2013

This is an application under Section 151 CPC seeking condonation of delay in refiling the appeal.

For the reasons stated in the application, which is duly supported by an affidavit, delay of 68 days in refiling the appeal is condoned.

The application stands disposed of.

RSA No. 4355 of 2013(O&M)

The appellant-defendant No. 2 (a) is aggrieved of the findings rendered by the courts below whereby in a suit for declaration and joint possession, mutation which was contrary to the agreed contents of the sale deed dated 30.3.1970 has been decreed.

Learned counsel appearing on behalf of the appellant submits that the defendant-vendor had sold the same very piece of land, though it was during the pendency of the agreement to sell in favour of the plaintiff. In a suit for specific performance defendant No.2 was not arrayed which resulted into execution of the decree, therefore the appellant is bona fide purchaser and thus, urges this Court to formulate substantial questions of law as carved out in the Memorandum of Appeal.

I have heard learned counsel for the appellant, appraised the paper book and of the view that at the best, the defendant No. 2(a) had a right to claim damages against defendant No.1 for the reason that there was an agreement to sell in favour of the plaintiff which has culminated into registration of the sale deed dated 30.3.1970 whereas defendant No.1 was not having any title. He could not have passed it to defendant No.2 which has been relied upon vide sale deed dated 15.2.1971 in view of the fact that the sale deed in respect of the same was not valid in the eyes of law. Therefore, both the courts below have agreed with the contention of the plaintiff that mutation was not in consonance with the contents of the sale deed, much less there is no limitation prescribed when the suit is filed on the basis of title.

Keeping in view the aforementioned facts, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

March 3 , 2016
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