

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

RSA No.3126 of 2016 (O&M)

Date of decision:15.07.2016

Hari Singh and another

... Appellants

Vs.

Santosh Rani and others

... Respondents

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. Harkaran Singh, Advocate, for
Mr. B.S.Bhalla, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

Appellant-defendants No.3 and 4 are claimed to be bonafide purchasers of the suit land which was agreed to be sold by Baljinder Kaur, through Power of Attorney - Malkiat Kaur.

Mr. Harkaran Singh, learned counsel appearing on behalf of the appellant-defendants No.3 and 4 submits that agreement to sell dated 04.09.2006 was executed between Malkiat Kaur, Power of Attorney holder of vendor Baljinder Kaur with the respondent/plaintiff-Santosh Rani. Since the sale deed could not be executed, the suit was filed on 12.10.2006. The appellants are the bonafide purchasers of the suit property, vide sale deed dated 24.10.2006. They were not aware of the subsistence of the agreement, therefore, they are entitled to the protection, in view of the provisions of Section 41 of the Transfer of Property Act and this fact has not been noticed

by both the Courts below. At the best, it could have granted the alternative decree for refund of amount of ₹2,50,000/- along with interest and thus, urges this Court to formulate the substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant/defendants No.3 and 4 and appraised the judgments and decrees of the Courts below.

The facts noticed above would reveal that sale deed was executed during the pendency of the suit and therefore, hit by lis pendens. The price of the land has not surfaced. Presumption is drawn that appellants had purchased the property under trust from Baljinder Kaur, despite the existence of agreement in question. Readiness and willingness would reveal from the date of the filing of the suit. The Courts below rightly have exercised the discretion under Section 20 of the Specific Relief Act while rendering the finding in declining the relief under the provisions of Section 16 (c) of the Specific Relief Act.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below which are based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

July 15, 2016
savita