

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

RSA No.772 of 2013 (O&M)

Date of Decision.22.08.2016

Balbir Kaur and another

.....Appellants

Vs.

Guru Granth Sahib and others

.....Respondents

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

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

AMIT RAWAL J. (ORAL)

The appellants-defendants are aggrieved of the concurrent finding of fact whereby claim in the suit seeking declaration and relief of permanent injunction that the plaintiffs are the owners of the property in dispute by virtue of gift deed dated 26.02.1959, has been decreed.

Mr. Harkaran Singh, Advocate for Mr. B.S. Bhalla, Advocate appearing for the appellants-defendants submits that the defendants are bona fide purchasers for a valuable consideration as they had purchased land from Jagir Kaur daughter in law of Har Kaur vide sale deed dated 24.01.2003. This aspect has totally escaped the notice of the Court. In fact, the provisions of Section 41 of the Transfer of Property Act was required to be attracted and the benefit ought to have flown in favour of the defendants. The gift deed is 30 years old and had not been proved in accordance with law and yet it has been taken into consideration by invoking the provisions of Section 90 of the Indian Evidence Act, thus, urges this Court for setting aside the judgments and decrees passed by the Courts below by formulating the substantial questions of law as drawn in the memorandum of appeal.

I have heard learned counsel for the appellants-defendants and appraised the paper book and of the view that there is no merit and substance in the aforementioned submissions, for, the cardinal principle of taking up the plea of bona fide purchaser is to make enquiry from the revenue record regarding the saleable interest and right of the vendor. In fact, no documentary evidence has been placed on record to show that Jagir Kaur was reflected as owner of the property and therefore, the plea of bona fide purchaser, in my view, has rightly been rejected. Failing to discharge the onus, the respondents-plaintiff have rightly been declared owners of the property in view of the gift deed *ibid*.

I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for consideration. No ground for interference is made out. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 22, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No