

RSA No. 909 of 2016 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 909 of 2016 (O&M)
Date of decision : May 26, 2016

Harish Kumar and others

..... Appellants

Versus

Parvinder Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R. N. Lohan, 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).

The appellants-defendants are aggrieved of the concurrent finding of fact whereby the suit granting declaration in favour of respondents-plaintiffs who have become owners by way of registered Release deed dated 9.9.2005 executed by defendant No.4 in their favour has been decreed and injunction was also issued against them and their his agents from interfering into title, possession and also upheld the sale deed dated 19.8.2005.

Learned counsel appearing on behalf of the appellants submits that the simpliciter suit for declaration along with consequential relief of permanent injunction in the absence of possession was not maintainable. The jamabandi would reveal possession of the defendant and respondents-plaintiffs have failed to prove the release deed. Both the courts

below have not noticed these facts, much less the documentary evidence, thus urges for setting aside of the judgments and decrees of both the courts below and formulating substantial questions of law as carved out in the Grounds of Appeal.

I have heard learned counsel for the appellant and appraised the paper book and of the view that the case set up by the respondents that they have purchased the property vide sale deed dated 19.8.2005 executed by defendant No.4. An occasion arose to file the suit aforementioned when defendant No.4 having no title in the property executed a registered Release deed dated 9.9.2005 in favour of defendant Nos. 1 to 3.

It is a settled law that a person who is not having title cannot pass on the better title. The courts below on the basis of evidence also noticed that there a recital in the sale deed of handing over the possession. Even defendant No.4 in the statement admitted his signatures on the sale deed.

In view of the aforementioned facts, defendant No.4 had no title or interest in the property to pass on the same by way of Release deed in favour of defendant Nos. 1 to 3.

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. The findings rendered by both the courts below are affirmed.

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

May 26 , 2016
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