

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

RSA No.5861 of 2015 (O&M)

Date of decision:25.02.2016

Suraj Bhan

... Appellant

Vs.

Hazari (deceased) through His LRs & others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vinod S. Bhardwaj, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby, claim qua declaration and possession of land measuring 160 kanals 5 marlas in respect of suit property and challenge to the judgment and decree dated 31.08.2002, has been declined.

Mr. Vinod S.Bhardwaj, learned counsel appearing on behalf of the appellant-plaintiff submits that plaintiff challenged the decree obtained by the defendants vis-a-vis identification of the property purchased in auction bearing khewat No.74/74, whereas, in the auction proceedings, it was mentioned as khewat No.73/73. The executing Court did not correct the error, which necessitated in filing of the aforementioned, suit. It is the aforementioned suit which was filed on the ground that once the auction had become final, the respondent-defendants could not seek redemption by filing the

instant suit, thus, suit was not maintainable and this fact had totally been ignored by both the Courts below, thus, urges that substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-plaintiff and appraised the judgments and decrees of the Courts below.

Even if the appellant-plaintiff was not a party in the civil suit, decree of which has been sought to be set aside, it is a matter of fact that the defendants acquired the ownership in pursuance to the execution proceedings conducted in respect of money decree, whereby, property belonging to the appellant-plaintiff was put to auction and defendant was found to be successful bidder. The filing of suit is an attempt to circumvent the execution of the money decree which is not permissible in law, therefore, rightly so both the Courts below declined the relief as sought in the suit.

In view of the aforementioned observations, I do not find any illegality and perversity in 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 determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 25, 2016
savita