

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

R.S.A. NO.4415 OF 2014

DATE OF DECISION: MAY 13, 2016

Sat Pal and another

.....Appellants

VERSUS

Duni Chand and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr. C. B. Kaushik, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgement and decree dated 22.12.2010 passed by the Civil Judge (Junior Division), Kaithal, whereby the suit for declaration to the effect that sale deed No.3698/1 dated 10.08.2004 executed by respondent-defendant Nos.2 and 3, Ramesh Sharma and Sat Pal, by virtue of two separate sale deed Nos.2435/1 and 2436/1, dated 07.06.2005 in respect of land measuring 10 marlas (300 Sq.Yards) in favour of the appellants, who were defendant Nos.1 and 4 in the suit, is null and void and is not binding on the rights of the plaintiffs and that the appellant-defendant Nos.1 and 4 are owners in possession of the suit land to the extent of 98 Sq.Yards alongwith a decree of permanent injunction, restraining them from interfering in the possession or raising construction over the suit land more than their share or alienating the same,

has been decreed, appeal against which preferred by the appellant-defendant Nos.1 and 4 has been dismissed by the Additional District Judge, Kaithal, on 31.10.2013.

It is the contention of learned counsel for the appellants that the judgements and decree passed by the Courts below would not be sustainable in the light of the fact that although a specific plea had been taken by appellant-defendant Nos.1 and 4 in their written statement that they are bonafide purchasers and had taken all care and caution prior to purchasing the suit land but no such issue has been framed in this regard. He contends that in the absence any issue having been framed, appellant-defendant Nos.1 and 4 have been prejudiced and their right has been curtailed to the extent that they have been denied the opportunity to prove their plea of bonafide purchasers.

I have gone through the impugned judgements with the able assistance of learned counsel for the appellants and am of the considered view that although no specific issue has been framed with regard to the assertion of appellant-defendant Nos.1 and 4 that they are the bonafide purchasers of the suit land but the parties to the suit, knowing it fully well that such an issue arises, had proceeded to lead evidence in support thereof. The Courts below have duly considered this aspect and have returned findings, which cannot be faulted with. The plea of bonafide purchaser cannot be sustained in the light of the fact that the respondents have duly proved the factum that Ramesh Sharma could only sell 202 Sq.Yards of the suit land and not beyond that. The findings, as recorded by the Courts, therefore, do not call for any interference by this Court as there is no misleading or misreading of the evidence, which would call for some

consideration by this Court.

No other point has been argued by learned counsel for the appellant-plaintiff.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

May 13, 2016
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE