

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4514 of 2014 (O&M)
Date of decision : January 13, 2016

Ishwar Chand

..... Appellant

Versus

Ram Rattan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Vikas Sharma, Advocate for
Mr. K. S. Malik, Advocate
for the appellant.

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).
CM No.10473-C of 2014

This is an application under Section 149 read with
Section 151 CPC for making good the deficiency in court fees.

The application is allowed.

Permission granted to make good the deficiency in
court fee.

CM No.10472-C of 2014 & 11949-C/14

This is an application under Section 5 of the
Limitation Act seeking condonation of delay in filing the appeal.

For the reasons stated in the application, which is
duly supported by an affidavit, delay of 109 days in filing the appeal is
condoned.

The application stands disposed of.

RSA No. 4514 of 2014 (O&M)

The appellant-defendant No.3 is in Regular Second Appeal against concurrent finding of fact whereby the suit filed by the plaintiff challenging the sale deed dated 29.5.2008 has been declared to be null and void.

Learned counsel appearing on behalf of the appellant-defendant No.3 submits that he is a bona fide purchaser for a valuable consideration inasmuch as the property in the revenue record sold by defendant Nos. 1 and 2 was reflected in their name and therefore the courts below have failed to appreciate the aforementioned fact, thus, there is illegality and perversity in the impugned orders.

He further submits that in pursuance to the sale deeds he has been put into possession and has installed a tube well and kotha also, therefore the balance of convenience and equity lies in his favour.

I have heard learned counsel for the appellant and appraised the paper book.

The plaintiffs-respondents have been able to prove on record due execution of the sale deed dated 23.6.1993 bearing vasika No. 1790 in favour of father of plaintiff No.1 and grand father of plaintiff Nos. 2 and 3. The plea of bona fide purchaser sought to be invoked by referring to the provisions of Section 41 of Transfer of Property Act, 1882 would not come to the aid of the appellant-defendant No.3, for the reason, that the appellant has failed to make reasonable enquiry by inspecting the record and register whereby the

aforementioned sale deed has been registered.

At the best, the appellant-defendant No.3 is entitled to seek damages against defendant Nos. 1 and 2 who by taking advantage of the entry made in the revenue record further sold the land to him.

Both the courts below have concurrently found merit in the averments made in the plaint as well as evidence lead in support of the same.

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. I do not find any illegality or perversity in the aforementioned judgment and decree of the courts below.

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

January 13 , 2016
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