

CWP No.10740 of 2017

[1]

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

**CWP No.10740 of 2017
Date of decision:25.08.2017**

Kesar Singh

...Petitioner

Versus

Dalvir Singh and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Shahshank Sharma, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

The petitioner agreed to purchase land measuring 282 Kanal 09 Marlas from one Harjit Kaur by way of an agreement to sell dated 22.09.2003. He allegedly paid the entire amount of ₹56 lacs and took the possession. However, formal sale deed was not executed and registered. Harjit Kaur stated to have sold the land in dispute to Gurdarshan Singh and Sharanjit Kaur on 02.06.2004 who further sold it to Dalvir Singh and Gurjit Singh on 31.10.2005. Dalvir Singh and Gurjit Singh filed an application informing the revenue authorities about acquisition of their rights in the immovable property by way of sale deed dated 31.10.2015. On the basis of the registered sale deed dated 31.10.2015, mutation no.3125 was sanctioned in favour of Dalvir Singh and Gurjit Singh. The said order of sanctioning of mutation has been challenged by the petitioner unsuccessfully before all the revenue authorities. Hence, the present petition.

Counsel for the petitioner submits that the petitioner had filed Civil Suit No.912 of 14.08.2004 for seeking specific performance of the agreement to sell dated 22.09.2003. In that suit, the defendants did not put

appearance and were proceeded against *ex-parte* and an *ex-parte* decree has been passed in favour of the petitioner on 13.01.2016. He further submits that since the petitioner has also acquired a right in the property in dispute on the basis of an *ex-parte* decree, having been obtained against the original owner(s), therefore, mutation no.3125 should have been recalled and fresh mutation may be sanctioned in his favour.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that there is no merit in the present petition because Harjit Kaur, after entering into an agreement with the petitioner on 22.09.2003, did not execute any sale deed and got it registered in his favour rather she sold the property in question to Gurdarshan Singh and Sharanjit Kaur on 02.06.2004 by way of registered sale deed and they further sold it to Dalvir Singh and Gurjit Singh on 31.10.2015, whereas the petitioner had filed the Civil Suit on 14.08.2004, much after the sale deed dated 02.06.2004, therefore, by that time the proprietary rights of the land in question had already been conferred upon Gurdarshan Singh and Sharanjit Kaur by Harjit Kaur by way of registered sale deed. Until and unless the aforesaid sale deeds dated 02.06.2004 and 31.10.2015 are set aside by the competent court of law, the decree obtained by the petitioner against the person, who was not the owner when the decree was passed, is of no consequence.

In view of the above, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

August 25, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No