

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

**Regular Second Appeal No.3928 of 2008 (O&M)
Date of Decision: 05.07.2017**

Smt. Gyan Kaur and others

..... Appellants

Versus

Bhartesh Goel and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Ashwani Talwar, Advocate for the appellants.

Mr. J.P.Sharma, Advocate for the respondents.

JASWANT SINGH, J. (Oral)

The defendants are in second appeal assailing the concurrent findings recorded by both the Courts below, whereby the suit of the plaintiff-Bhartesh Goel (respondent No.1) for permanent and mandatory injunction was decreed by learned Civil Judge (Jr. Divn.), Narnaul, vide judgment and decree dated 16.08.2003 and duly affirmed by learned District Judge, Narnaul, vide judgment and decree dated 20.03.2008.

In short, the claim of the respondent/plaintiff is that he had purchased a plot measuring 208.5 Sq. Yds., vide Sale Deed dated 07.03.1991, including the open area (sehan/disputed suit property).

The case of the defendants/appellants was that they had purchased the said suit property, vide unregistered Sale Deed.

It is conceded that the area covered under the Sale Deed was marked as Plot No.MEP 1812, 1813 and 1814, including the open area marked as MEP 1811.

The trial Court decreed the suit. In the appeal, filed by the defendants/appellants, an application for additional evidence was made to prove that the ownership of the disputed open area marked as MEP 1811 vested with the defendants, in the light of the Sale Certificate dated 20.06.1961, issued by the Department of Rehabilitation. Learned Appellate Court, while dismissing the appeal, also dismissed the application for additional evidence.

During the course of hearing before this Court, an order dated 19.05.2015 was passed by this Court, which for ready reference is reproduced as under:-

" *Learned counsel for the appellants submits that the defendants' application under Order 41 Rule 27 CPC filed before the First Appellate Court has been rejected. The document which the defendants wanted to produce for the first time in appeal is a Certificate of Sale purportedly issued by the District Rent and Managing Officer, Rohtak of sale of EP No.1811 bounded by EP No.1812-13-14 (admittedly belonging to the plaintiff) and on the other side EP No.1038 belonging to a third party. It was the case in the application that the defendants had bought this land from the original allottee Ladha Ram. Since the sale value was less than Rs.100/- it was not a compulsorily registrable document under the Registration Act, 1860. In support, the defendants also produced photocopy evidence that the price of the plot as on 20.06.1961, the date the certificate was issued was Rs.75/-. The document is found at page 235 of the Lower Appellate Court record. It is urged that the Lower Appellate Court refused to look at these documents.*

Learned counsel for the respondents submits that the Sale Certificate issued in the name of Ladha Ram is a forged document and, therefore, its reception was properly rejected by the First Appellate Court in evidence. Since the document appears to be public document in the Rehabilitation Department it would be just and proper to request the District Judge, Narnaul to make and submit report on the authenticity of the document appended with the application under Order 41 Rule 27 CPC by taking the assistance of

the Deputy Commissioner, Narnaul and Deputy Commissioner, Rohtak (since Narnaul was part of District Rohtak in 1961) and the Superintendent of Police, Narnaul and Superintendent of Police, Rohtak for them to make an investigation as to the authenticity of the documents.

It is made clear that for carrying out this exercise the learned District Judge, Narnaul would not be required to hear parties.

Let report be submitted within three months.

List on 01.09.2015.

Let a copy of this order be sent to the learned District Judge, Narnaul, the Deputy Commissioners of the Districts Narnaul and Rohtak and SP, Narnaul and SP, Rohtak along with a photocopy of page 235 of the First Appeal Court record. "

Pursuant to the enquiry, a report has been received with the findings that the Sale Certificate dated 20.06.1961 is a forged document.

In the light of the findings of the aforesaid report, learned Counsel for the appellants/defendants does not wish to address any argument.

In view of the aforesaid circumstances, the present regular second appeal is dismissed.

July 05, 2017
Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>