

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

**RSA No.1192 of 2012
Date of Decision:15.12.2017**

Mem Singh

...Appellant

Versus

Banarsi Dass and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.R.S.Mamli, Advocate for the appellant.
Mr.Krishan Bhardwaj, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff filed a suit for declaration, claiming that the sale-deed executed by defendants No.2 to 4 in favour of defendant No.1 dated 9.8.2002 is illegal, null and void.

This is a case where plaintiff-appellant has abused the process of court. It is not in dispute that Fazludin, predecessor of defendants No.2 to 4, was owner of the property. He entered into an agreement to sell with defendant No.1-Banarsi Dass on 4.10.1985. Banarsi Dass filed a suit for possession by way of specific performance of agreement to sell, which was decreed on 6.12.1993. In execution, sale deed came to be executed in favour of defendant No.1-Banarsi Dass through the agency of the court on 9.8.2002. After the decree had been passed for specific performance of the agreement to sell in favour of Banarsi Dass, defendants No.2 to 4 sold the

property vide sale deed dated 17.8.2001 in favour of the plaintiff. The sale was executed after the decree for specific performance had been passed.

Learned counsel for the appellant has vehemently argued that the plaintiff-appellant is a bonafide purchaser. He has further argued that there was no entry of pending civil suit or a decree in the revenue record.

I have heard the submissions. However, I do not find any substance therein.

As noticed earlier, the decree for possession by way of specific performance of the agreement to sell was passed in favour of Banarsi Dass on 6.12.1993. The sale in favour of the plaintiff is much thereafter. The plaintiff has no basis to claim that he is a bona fide purchaser. A decree passed by the court, which has become final, cannot be allowed to be frustrated.

In view of the discussion made above and for the reasons recorded by the courts below, there is no good ground to interfere in the concurrent findings of fact.

Dismissed.

15.12.2017
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No