

LPA no. 1308 of 2015 (O&M) 1

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

LPA no. 1308 of 2015 (O&M)

Date of Decision : 27.04.2017

Gurdial Singh and others

....Appellant(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

**Present : Ms. Hem Lata Thakur and
Mr. H.P.S.Ghuman, Advocates for the appellants**

Mr. P.S.Bajwa, Addl. AG, Punjab

Mr. J.S.Khiva, Advocate for respondent

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned
Single Judge dated 21.8.2015.

Some land was allotted to Chhintawala Harijan Land Owning
Cooperative Society Limited Chhintawala Tehsil Nabha, District Patiala in
the year 1956. All the members of the society were landless persons.

From the facts it transpires that few members of the society
entered into an agreement to transfer possession of some land in favour of
the present appellants. There were multiple transactions therefore, details of
the number of individuals involved, though noticed in the Single Judge's
order, would not be necessary to set out here.

Suffice it to say that the appellants pleaded that they had paid

the entire sale consideration even though no sale document/conveyance

deed exists in their favour and neither was it ever acknowledged by the society that shares stood alienated in favour of the appellants.

The appellants pleaded possession in the writ proceedings and prayed for issuance of writ in the nature of certiorari restraining the respondents from dispossessing the appellants in view of the order of the Assistant Registrar, Cooperative Societies, Nabha.

On a prior occasion CWP no. 9502 of 2010 was filed which was disposed of on 5.10.2010 largely on the premise that an inquiry was pending regarding the transfer of this land as alleged by the appellants. Till the time such inquiry was concluded appellants' possession was protected. The Tehsildar concluded the inquiry and submitted the same to the Deputy Commissioner reporting possession in the hands of non-members of the society whereupon Deputy Commissioner initiated the process for taking over possession from such non-members which then became a cause of grievance of present appellants in CWP no. 16901 of 2015 wherein learned Single Judge noticed that the appellants had not been able to show any legitimate right to possession either on the basis of sale or lease or licence and negated their plea of legitimate possession in view of the judgment of the Hon'ble Supreme Court in **Suraj Lamp and Industries Pvt. Ltd vs. State of Haryana and another** 2011 (4) RCR (Civil) 669 wherein it was observed as follows:-

“The Courts will not treat such transactions as completed or concluded transfers or as conveyance as they neither convey title nor create any interest in an immovable property. They cannot be recognized as deeds of title, except to the limited extent of Section 53-A

of the TP Act. Such transactions cannot be relied upon or made the basis for mutation in Municipal or Revenue Records. What is stated above will apply not only to deeds of conveyance in regard to freehold property but also to transfer of leasehold property. A lease can be validly transferred only under a registered Assignment of Lease. It is time that an end is put to the pernicious practice of SA/GPA/WILL transactions known as GPA sales.”

There would be absolutely no reason to differ with the observations of the learned Single Judge based upon the extracted portion of the Hon'ble Supreme Court judgment, particularly, when the appellants have been unable to show any legitimacy of their possession.

Except to harp on the agreement to sell there is no valid document, recognized in law, to substantiate their plea of valid possession. It is also not in dispute that the appellants assert their rights on the basis of agreement to sell which itself is now being disputed by the very same persons who had executed it in civil suit which had been dismissed and appeal against that order had also been dismissed.

Evidently in the controversy there is a strong undercurrent of disputed facts and therefore, writ Court would be clearly precluded from entering into such an arena of disputed facts. Learned Single Judge while declining interference similarly, granted the appellants the liberty to take recourse to filing of civil suit for permanent injunction.

Learned counsel for the appellants contends that such a remedy

Societies Act.

Be that as it may, we make it clear that simply because learned Single Judge had opined that remedy of civil suit would be available it would not be a bar for the appellants to take recourse to any other legitimate remedy available to them in law, for that purpose.

With the aforesaid observations, instant appeal is disposed of.

(Mahesh Grover)
Judge

27.04.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Shekher Dhawan)
Judge