

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

RSA No.887 of 2013 (O&M)

Date of decision : 16.11.2017

Surinder Pal @ Surinder Lal

...Appellant

Versus

Multan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.S. Dadwal, Advocate for the appellant.

Mr. C.L. Sharma, Advocate for respondent Nos.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.2-appellant is in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

It is not in dispute that the plaintiffs purchased the land measuring 1 kanal 13 marlas vide sale deed dated 20.12.1988 from defendant No.1 who was owner of the property. Thereafter, defendant No.1 sold 1 kanal and 17 marlas of land to defendant No.2 vide sale deed dated 27.05.1999. It is well settled that a prior purchaser has a better right and rights of the subsequent purchaser are always subservient to the first purchaser.

The plaintiffs had filed a suit for declaration that they are owner in possession of the land/plot purchased by them vide sale deed dated 20.12.1988.

Both the Courts below after appreciation of the evidence have found that both the parties are co-owners and in joint possession.

Learned counsel for defendant No.2-appellant has vehemently argued that the possession of defendant No.2-appellant be ordered to be

protected. In this case, both the Courts below have only granted the declaration to the plaintiffs with respect to the area purchased by them through sale deed dated 20.12.1988. The sale deed in favour of the plaintiffs has never been challenged either by his vendor-defendant No.1 or by defendant No.2.

Still further, the defendant has not filed any counter claim. Therefore, the prayer made by the learned counsel for the appellant cannot be accepted.

Next argument of the learned counsel is that no doubt the sale in favour of the plaintiffs was earlier at point of time, however, it was not incorporated in the revenue record and, therefore, the defendant purchased the property bona fide. Even this argument cannot be accepted because the transfer of the title takes place on execution and registration of the sale deed. Merely because the mutation of the sale has not been incorporated in the revenue record, the title of property in favour of plaintiff cannot be defeated.

At the cost of repetition, a person who has purchased the property earlier at point of time has to be given precedence.

For the reasons recorded above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Regular Second Appeal is dismissed.

16.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No