

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-4721-2016 (O&M)
Date of Decision:- 01.08.2017

Dayanand

.....Appellant

Versus

Silochna and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Laj Pat Sharma, Advocate
for the appellant.

RITU BAHRI, J. (Oral)

Defendant No.1-appellant (hereinafter to be referred as 'the appellant') has come up in regular second appeal against the concurrent findings of facts recorded by both the Courts below whereby the suit of plaintiff-Silochna (respondent No.1) has been decreed.

A bare perusal of the judgments shows that plaintiff had filed a suit for permanent injunction against the defendants to the effect that the defendants be restrained from interfering in peaceful cultivating possession of the plaintiff over the land in question to the extent of her share. The plaintiff is claiming possession over the suit property on the basis of sale deed No.166 dated 28.05.2007 (Ex.P1). The mutation on the basis of sale deed is Ex.P2. As per the report of Local Commissioner

(Ex.PW4/A), the possession of the plaintiff was admitted over the entire property in direct reference to the sale-deed Ex.P1. After the sale deed was executed (Ex.P1), the mutation (Ex.P2) was made and the plaintiff was found to be owner in possession of respective share of the suit property. Defendant No.1 has sold his entire land by the sale-deed (Ex.P1) in favour of plaintiff and defendant No.3. Defendant No.3 herself is a purchaser with the plaintiff in reference to certain share. Issue No.1 was partly decided in favour of the plaintiff to the extent that plaintiff is owner in possession, qua her share, in consonance with the sale deed No.166 dated 28.5.2007. Since defendant No.3 was also a purchaser, the plaintiff could not seek injunction against defendant No.3. This finding recorded by the trial Court was affirmed by the lower Appellate Court. A plea taken by defendant before the appellate Court that he had taken a loan and mortgaged the property and in order to get the land freed from mortgage, his signatures were obtained on paper, which he never knew. He claimed that he had never visited in the office of Sub-Registrar for getting the sale deed executed. However, as per the document (Ex.P1), the photographers of seller and purchasers were there on the record along with the signatures. No evidence was led by defendant No.1 to show any fraud had been committed upon him. The land had been sold by him within the family and he has received the consideration amount as well. Consequently, the appeal filed by the defendant has been dismissed by the learned Appellate Court.

After hearing the learned counsel for the appellant, going through the impugned judgments, this Court is of considered view that

the concurrent findings recorded by the Courts below on the basis of facts and evidence do not call for any interference. There is absolutely no substantial question of law involved in this case.

In view of the above, the present Regular Second Appeal is without any merit and the same stands dismissed.

August 01, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No