

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

RSA No.4363 of 2015 (O&M)
Date of Decision: March 30, 2017

Shiwani

..Appellant(s)

Versus

Mahabir Parsad and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Kumar Yadav, Advocate
for the appellant.

ANITA CHAUDHRY, J.

CM-10524-C-2015

For the reasons set out in the application, same is allowed
as prayed for and delay of 47 days in filing the appeal is condoned.

RSA No.4363 of 2015

This is the defendant's second appeal aggrieved by the
judgments of both the Courts below.

The facts are essential. The plaintiff filed a suit seeking
declaration that he along with defendant no.3 and the proforma
defendants were owners in possession in equal share of a Nohra and the
sale certificate issued in the case of Ramesh Vs. Om Parkash was
illegal, null & void and liable to be set aside. The property in dispute
was purchased by Hari Ram, father of the plaintiff from Manmohan
vide registered sale deed dated 19.05.1959 and Hari Ram continued to

be the owner. The appellant had purchased the property in a Court auction and a sale certificate was issued. The property was not exclusively owned by Om Parkash son of Hari Ram. After the death of Hari Ram it had devolved on all his sons. The plaintiff on coming to know of the auction filed a suit assailing the sale certificate issued in favour of Shiwani appellant who is the auction purchaser. The Court found that the JD was not the exclusive owner. Ramesh Chander, the decree holder had given the details of the property to the Court and believing that statement, the auction was ordered. Noticing the facts and the evidence, the trial Court had passed the following order:-

“46. In sequel of my above said findings on issue No.1 to 3 suit of the plaintiff succeeds and decreed with costs and the plaintiff, defendants No.6 and 7 are held to be owners in equal share to the extent of 1/4 share, therefore, the attachment order mark PK and sale certificate Ex.P23 are hereby declared illegal, against law, null and void and are set aside to the extent of share of plaintiff, proforma defendants no.6 and 7. However, sale certificate Ex.P23 issued in respect of share of defendant no.3 Om Parkash remains intact. Further defendants are directed not to change the nature of the suit property except in due course of law. Decree sheet be prepared accordingly. File be consigned to the record room.”

An appeal was preferred, which too had been dismissed.

I have heard the counsel for the appellant at great length and I find no reason to differ with the reasoned findings recorded by both the Courts below. The trial Court had taken note of the fact that Om Parkash had only a share and to that extent the sale certificate was ordered to remain intact. It only needs to be clarified that the appellant would have the right to pursue her remedies available to her under law.

The appeal is dismissed in limine.

March 30, 2017
sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No