

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.4243 of 2014 (O&M)
Date of Decision: 26.07.2017

Harbans Singh and another

... Appellants

Versus

Surinder Kaur and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Jain, Advocate,
for the appellants.

RAJIV NARAIN RAINA, J.

1. This is defendant's second appeal having lost in both the Courts below.

2. The learned District Judge, Shaheed Bhagat Singh Nagar has affirmed the judgment and decree of the trial Court by his well considered order dated February 07, 2014 concurring with the findings of fact recorded by the trial court holding that the agreements of sale propounded by the plaintiff do not pertain to the suit property at all. The District Judge after revisiting the evidence and re-appreciating on law and facts has correctly observed that if at all the plaintiff had agreed to sell some of his properties to the defendants, or had even executed sale deeds Ex.D-2 and Ex.D-3 dated December 02, 2005 and December 15, 2005 respectively and some of his other properties to the defendants, the former cannot claim having acquired any right to interfere in possession of those properties of the plaintiff, which they had not agreed to sell to the defendants or had sold them to the

defendants vide Exs.D-A, D-B, D-1 and D-2. The documents Exs.D-4 to D-24 have been rubbished by the learned District Judge as self-serving documents relied upon by the defendants that cannot legally harm the plaintiffs in any manner. He has upheld the observation of the learned trial Court that even if these documents are taken at their face value, the defendants still cannot assert that those properties have any relation with the suit property for want of necessary details. The plaintiffs proved themselves to be in possession of the suit property. If the plaintiffs have been proved (presently represented by LR's namely his wife and two sons) to be in possession of suit land described in the plaint then plaintiff had a right to permanent injunction against the defendants restraining them perpetually from interfering with and attempting to dispossess the plaintiffs from the suit property by clouding their rights and interest.

3. Learned counsel is unable to get out of the findings of fact recorded by both the Courts below. The main stay of the case of the defendants, presently the appellants, was centered upon agreements of sale Ex.D-A ad Ex.D-B. The agreements of sale do not confer title upon the prospective buyer as conveyance of suit property. They may be relevant to the extent they can be used to ascertain whether the vendor parted with the possession of the property in question in part performance of the agreement. The finding is that despite the agreements of sale possession was not parted and plaintiffs continued to remain in cultivating possession of the suit land.

4. As a result, this appeal must fail and is hereby dismissed. A question of law does not even remotely arise for consideration and, therefore, notice to plaintiff-respondents does not deserve to be issued in

second appeal. The very fact that when this case came on for hearing for the first time on October 27, 2014 a request for adjournment was made and thereafter, the appeal has lingered on suffering six court listings and once by order of this Court dated March 11, 2016 summoning the lower courts' record. Even thereafter for as many as three dates adjournment have been sought which confirms the view that even counsel is not convinced that appellants had a case to urge in second appeal.

5. With the dismissal of the main case, the application for condoning delay in re-filing the appeal requires no orders to be passed therein.

6. Lower Court records be sent back to the quarters concerned after following office procedure.

(RAJIV NARAIN RAINA)
JUDGE

26.07.2017

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Whether speaking/reasoned *Yes*

Whether reportable *No*