

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.4375 of 2014 (O&M)
Date of decision: 17.08.2017

Sheo Parshad and others

..... Appellants

Versus

Chetan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kul Bhushan Sharma, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs are in Regular Second Appeal against the concurrent finding of fact.

Plaintiff had filed a suit claiming themselves to be owners of agricultural land measuring 110 kanals, 16 marlas situated in village Sehloti, Tehsil Palwal, District Faridabad. It was claimed by the plaintiffs that the property was inherited by them from their mother-Rulhi. It was claimed that the defendants are being shown as mortgagee in possession in the revenue record whereas the land was never mortgaged.

In defence, defendants pleaded that the defendants are in possession of the property as owners. Defendant claimed that they have purchased the property from Smt. Fatto by registered sale deed dated 10.09.1958. It was further pleaded that Sant Singh had also filed a civil suit challenging the sale deed and finding was returned that the sale is valid. It was pleaded that since Fatto has sold, therefore, the property was never

inherited by Rulhi. Therefore, the mutation in favour of the plaintiffs is totally illegal.

Learned trial Court after appreciating the evidence available on the file dismissed the suit filed by the plaintiff. It was held that Fatto had sold the property to the defendants and plaintiffs are trying to take benefit of wrong entries in the revenue record. Court further noticed that the sale in favour of defendants dated 10.09.1958 has not been challenged by the plaintiff. The plaintiff has filed the suit only on the basis of wrong facts.

Plaintiff filed the first appeal. Learned First Appellate Court also after appreciating the evidence available on the file held that sale deed dated 10.09.1958 has not been challenged. In fact, Fatto had suffered a Civil Court judgment in favour of the plaintiff with respect to the land measuring 17 kanals and one marla. The aforesaid judgment and decree was challenged successfully by the defendants. It was further noticed that the appeal filed by the plaintiffs was also dismissed on 17.10.1997 as per judgment Exhibit D-14. With these findings, learned First Appellate Court also dismissed the appeal.

I have heard learned counsel for the appellants at length.

Learned counsel for the appellants has submitted that the defendants had earlier filed a suit against some of the plaintiffs with respect to some part of the land purchased by the defendants herein. The aforesaid suit was decreed vide decree dated 01.03.1995. In view of the aforesaid decree, the defendants are only entitled to the land to the extent of the decree passed. The judgment passed on 01.03.1995 is Exhibit D-4 on the file. Defendants in the present suit had pleaded their title on the basis of sale deed dated 10.09.1958. In the previous suit, defendants herein had

challenged the validity of decree dated 22.01.1977 suffered by Fatto in favour of the plaintiffs. Learned Civil Judge held that decree is illegal and set it aside. The sale deed in favour of defendants herein was held to be valid.

Even the appeal filed by the plaintiffs herein was dismissed by the learned Additional District Judge vide judgment dated 17.10.1997 Exhibit D-14.

In view thereof, there is no force in the submission of learned counsel for the appellants that the defendants are only entitled to 17 kanals and 1 marla of land which is subject matter of Civil Suit No.566 of 1986. In that suit, defendants herein had challenged a Civil Court decree suffered by Fatto in favour of the plaintiffs. The defendants herein succeeded in that suit.

Learned counsel for the appellants further could not address any meaningful argument apart from what has been noticed above.

However, before concluding, I would like to notice that the parties have been filing the suits by concealment of facts which are apparrent from the record. In this case, the plaintiffs although were party to the judgment and decree dated 01.03.1995 did not choose to disclose the aforesaid litigation. Plaintiff even filed appeal but never choose to disclose the aforesaid facts before the Court while filing the suit. The sale deed dated 10.09.1958 executed by predecessor of the plaintiff was upheld in the earlier suit. Plaintiff even did not choose to disclose the aforesaid sale deed.

There has been rampant practice of filing false and frivolous suits. Such tendency must be carved. The Courts are being flooded with the suits which are totally false and frivolous.

In view of the facts noticed above, the present Regular Second Appeal is dismissed with cost of ₹ 1,00,000/- to be deposited by the plaintiff-appellants before District Legal Services Authority, Palwal. A copy of the judgment be sent to Civil Judge (Sr. Division), Palwal to ensure recovery of the cost from the plaintiffs.

Civil Judge (Sr. Division), Palwal shall send a report to this Court after recovering the amount.

Regular Second Appeal is dismissed.

17.08.2017

D. Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No