

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

RSA No.2999 of 2017 (O & M)
Date of decision :08.09.2017

Karam Chand

...Appellant

Versus

Mathura Devi (Now deceased) wd/o
Radhey Shyam Thru Her LRs and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. B.S. Dhull, Advocate
for the appellant.

ANIL KSHETARPAL, J.

CM No.7483-C of 2017

Delay of 38 days in filing the appeal is condoned.

Main Case

Plaintiff-appellant is in Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration and permanent injunction as a consequential relief. Plaintiff had sought a decree for declaration that registered sale deed dated 11.01.2010 executed by Mathura Devi in favour of Madhu Bala i.e. defendant No.2 is illegal, null and void and not binding on the rights of the plaintiff.

It is the case of the plaintiff that originally the plot was allotted to Shri Radhey Shyam. After the death of Radhey Shyam, the plot was transferred in the name of defendant No.1-Mathura Devi(widow). It is further the case of the plaintiff that in the year 2002, defendant No.1-Mathura Devi (widow) entered into an agreement to sell the plot with Sunita

Devi wife of Hemant Kumar vide agreement to sell dated 15.04.2002 and also executed a General Power of Attorney in favour of Hemant Kumar. It is further claimed that on the basis of the aforesaid General Power of Attorney, Hemant Kumar entered into an agreement to sell with the plaintiff and received Rs.73,000/-.

Defendant No.1-the widow contested the suit. It was claimed that the agreement to sell is illegal as the plot could not be sold for a period of 10 years. Defendant No.3 filed a separate written statement and asserted that defendant No.1 applied for permission to transfer the property in favour of defendant No.2, which was granted and pursuant thereto a sale deed was executed by defendant No.2 dated 11.01.2010.

After appreciating the evidence available on the file, the trial Court dismissed the suit.

Even the first appeal filed by the plaintiff has also been dismissed by the Court after re-appreciating the evidence available on the file.

I have heard learned counsel for the appellant and with his able assistance gone through the paper-book.

It is not in dispute that the plaintiff could neither produce on file original agreement dated 15.04.2002 allegedly executed by Mathura Devi(defendant No.1-the widow) in favour of Sunita Devi nor original alleged General Power of Attorney executed by Mathura Devi in favour of Hemant. In absence of these two documents, Hemant could not have executed any further agreement to sell with Karam Chand-plaintiff. These were two fundamental documents which plaintiff failed to produce on the

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

Hence, the appeal is dismissed.

08.09.2017

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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes

Whether Reportable : No