

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5501 of 2016
Date of Decision-08.01.2018

Jarnail Singh ... Petitioner
Versus
Jaswant Singh and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Arun Jain, Sr. Advocate with
Mr. Sunil Sharma, Advocate
for the petitioner.

Mr. Chetan Mittal, Sr. Advocate with
Mr. Alok Kumar Jain, Advocate and
Mr. Varun Issar, Advocate
for the respondents/DHs.

RAJ MOHAN SINGH, J.

[1]. Petitioner has assailed the order dated 27.05.2016 passed by Additional District Judge, Jalandhar vide which order dated 19.04.2016 passed by Civil Judge (Senior Division), Jalandhar, dismissing the objections filed by the petitioner was upheld.

[2]. Learned Senior Counsel for the petitioner submitted that initially Civil Suit No.213 of 1978 was filed on 31.07.1976 by Jaswant Singh, Sampuran Singh and Jagjit Singh sons of Gian Singh through their attorney Faqir Singh against Harbhajan Singh etc. for possession of land measuring 580 kanals 7 marlas. During pendency of the said suit, a compromise was effected. As per compromise, 412 kanals 15 marlas of land was given to the

decree holders and the remaining land was given to the predecessors-in-interest of objectors No.18 to 26 in the said proceedings. A compromise decree was passed by the trial Court at Jalandhar on 01.04.1980. The attorney of the decree holders executed four sale deeds and predecessor-in-interest of the petitioner had purchased 80 kanals of land from aforesaid Jaswant Singh, Sampuran Singh and Jagjit Singh vide registered sale deed dated 27.06.1980. Thereafter, decree holders filed Civil Suit No.62 dated 10.04.1981, challenging the sale deeds executed by Faqir Singh as well as compromise decree dated 01.04.1980. The said suit was dismissed by Sub Judge, Ist Class, Jalandhar on 31.07.1984.

[3]. Respondents/decree holders filed Civil Suit No.19 dated 09.04.1981 against Smt. Jaswinder Kaur and others for declaration, possession and permanent injunction. The suit was partly decreed vide judgment and decree dated 18.07.1991 by Sub Judge, Ist Class, Jalandhar. Sale deeds Ex.DW2/1 dated 13.06.1980, Ex.DW2/3 dated 13.06.1980, Ex.DW2/7 dated 27.06.1980 and Ex.DW4/2 dated 13.05.1980 were held to be void and illegal. Plaintiffs were held to be owner of the land covered by the aforesaid sale deeds i.e. land measuring 412 kanals 15 marlas and they were held entitled to get possession of the aforesaid land from purchasers/defendants No.6 to 11 therein. Permanent injunction was also granted and the defendants were restrained from alienating the suit property further to anyone.

[4]. Appeal filed against the aforesaid judgment and decree was dismissed by the Lower Appellate Court on 13.01.1997. Regular second appeal i.e. RSA No.859 of 1997 was dismissed by the High Court on 27.03.1997 and the said judgment was maintained in S.L.P before the Hon'ble Supreme Court.

[5]. One Avtar Singh son of Kehar Singh filed Civil Suit No.125 of 1998 against Amrik Singh and others including the decree holders for declaration to the effect that judgment and decree dated 18.07.1991 passed by Sub Judge, Ist Class, Jalandhar, judgment and decree dated 13.01.1997 passed by the Lower Appellate Court and judgment dated 27.03.1997 passed by the High Court in RSA No.859 of 1997 were illegal, null and void. In the said suit, only defendants No.1 to 15 were served and the remaining defendants including decree holders were proceeded against *ex parte*. The suit was decreed vide judgment and decree dated 21.03.2003 by Civil Judge (Junior Division), Jalandhar and declaration was granted to the effect that decree dated 18.07.1991 passed by Sub Judge, Ist Class, Jalandhar, judgment and decree dated 13.01.1997 passed by the Lower Appellate Court and order dated 27.03.1997 passed by the High Court in RSA No.859 of 1997 were illegal, null and void and were not binding upon the rights of the plaintiff and vendees under the four sale deeds as executed by Faqir Singh attorney of the vendors were held to be valid. In the aforesaid suit, an application

under Order 9 Rule 13 CPC for setting aside the judgment and decree dated 21.03.2003 was filed by Sukhwant Siri Kukreja widow of Sampuran Singh judgment debtor No.25 in the said suit. The said application was allowed vide order dated 31.05.2014 and the judgment and decree dated 21.03.2003 passed by Civil Judge (Junior Division), Jalandhar was set aside.

[6]. Learned Senior Counsel submitted that the judgment and decree dated 18.07.1991 was passed against defendants No.6 to 11 only. Father of the petitioner was defendant No.21 and the said judgment and decree was not binding upon him. Learned Senior Counsel also submitted that relevant issue with reference to challenge made to the sale deed dated 27.07.1972 was conceded by the plaintiff and no finding was recorded on the said issue as the previous suit was decided by compromise on 01.04.1980 and the issue in respect of authority of Faqir Singh was also not disputed during compromise, rather the same was acknowledged, therefore the sale made by Faqir Singh in favour of predecessor-in-interest of the petitioner cannot be faulted with.

[7]. I have considered the controversy. Executing Court cannot go behind the decree. Even though, the judgment and decree dated 18.07.1991 was claimed to be not against the father of the petitioner, but the petitioner filed appeal before the Lower Appellate Court, which was dismissed vide judgment and decree dated 13.01.1997 and the decree dated 18.07.1991 was upheld.

The said appeal was filed by defendants No.13 to 21 therein. No appeal was filed by defendants No.6 to 11. The effect of said decision would be tested by the Court finally in the context of binding character of the judgment and decree dated 18.07.1991 passed by the trial Court, judgment and decree dated 13.01.1997 passed by the Lower Appellate Court, order passed in RSA No.859 of 1997 by the High Court and the order passed in S.L.P by the Hon'ble Apex Court.

[8]. Since the sale deeds in favour of the predecessor-in-interest of the petitioner have been set aside by the Court, therefore, at this stage, I find no justification to interfere in the impugned orders passed by the Courts below. This revision petition is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

08.01.2018
Prince

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No