

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.457 of 2005 (O&M)

Date of decision: 29.08.2018

Agya Ram (deceased) through LRs and others

..... Appellants

Versus

Roshan Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Krishan Dadwal, Advocate
for the appellants.

Mr. Munish Gupta, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

CM-5175-C-2014

Application is allowed subject to just exceptions. Legal heir of respondent No.2 as mentioned in para No.2 of the application is brought on record for the purpose of defending this appeal only.

Main Case

Plaintiffs-appellants are in the regular second appeal against the judgment passed by the learned First Appellate Court.

Plaintiffs claimed that they are owner in possession of the property in dispute having purchased marusi rights vide four sale deeds dated 30.05.1924 and thereafter, become owner by operation of law in view of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1953.

Learned trial Court decreed the suit on the ground that at that

time when the sale took place, the Transfer of Property Act, 1882 was not extended to the State of Punjab. In fact, the relevant provisions of Transfer of Property Act were extended to the State of Punjab on 26.03.1955. However, the learned First Appellate Court noticed that even if the provisions of Transfer of Property Act are not applicable, still Registration Act was applicable and since the documents, the alleged four sale deeds are creating a right, title or interest in the immovable property worth Rs.100/-, therefore, there required compulsory registration. Thus, the first appeal preferred was allowed.

Learned counsel for the appellants submitted that since the relevant provisions of Transfer of Property Act were not applicable, the Registration Act would also not apply. He further submitted that all the sale deeds of assignment of right in the immovable property are for Rs.100/- which is permissible even under the Registration Act, 1908. This Court has considered the submission. The applicability of Registration Act, 1908 is not dependent upon the provisions of Transfer of Property Act. The Registration Act, 1908 is independently applicable. Section 17(1)(b) of the Registration Act clearly provides that if through any non-testamentary document/instrument which purports or operate to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest whether vested or contingent of value of Rs.100/- or upward to or in immovable property, the same shall be compulsory registrable. It is not in dispute that in the present case, the documents Ex.P-1 to P-4 which are in writing dated 30.05.1924 create a right and interest in the immovable property. All the alleged sale deeds are for Rs.100/-. The words used in Section 17(1)(b) are value of Rs.100/- or upward. In other words, any sale

deed below Rs.100/- can be through an unregistered document.

Learned counsel for the appellant further submitted that even oral sale was permitted. He submitted that once oral sale is permitted, then the judgment of the learned First Appellate Court is incorrect.

This Court has also considered this submission. It is not a case of oral sale. The sale deeds have been reduced into writing as Ex.P-1 to P-4. Once these have been reduced into writing, the such writings is required to be compulsory registered. No right, title or interest in the immovable property can pass through an unregistered document.

Hence, there is no scope for interference with the judgment passed by the learned First Appellate Court.

Appeal is dismissed.

29.08.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No