

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

**Regular Second Appeal No.4437 of 2009 (O&M)
Date of Decision: March 06, 2018.**

Sunita Rani and another

.....APPELLANT(s).

VERSUS

Surinder Kumar and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. C.M. Munjal, Advocate
for the appellant (s).

Mr. J.S. Sodhi, Advocate for
Mr. Gaurav Chopra, Advocate
for the respondents.

SURINDER GUPTA, J.

This is appeal against the concurrent judgments of the Courts below, decreeing the suit of the plaintiff-respondent No.1 to the effect that he is owner in constructive possession of the suit property as fully detailed in head note of the plaint, as per the sale deed dated 27.07.1982.

Admittedly, Bilas Chand was the owner of the suit property built on area measuring 122 sq. yards 25 sq. feet Khasra No.1452 and No.1453 khewat No.1204/1063 khatoni No.1851 as per jamabandi for the year 1997-98. He sold the same to Pushpa Rani, defendant No.1 vide sale deed dated 09.06.1972 and delivered the constructive possession of the same to her. She sold the suit property to plaintiff vide sale deed dated 27.07.1982 and delivered constructive possession of the same to him. After

the death of Bilas Chand, his son Naveen Kumar vide sale deed dated 22.03.1999 sold half share of the property in question in favour of defendant No.3 Sunita Rani. Parkashwati wife of late Bilas Chand sold the remaining half share of the suit property to Shashi Bala, defendant No.5 vide sale deed dated 22.03.1999.

Appellants-defendants No.3 and 5 tried to defend the sale deeds in their favour by raising the plea that they are bona fide purchasers which was turned down by the Courts below.

The findings of learned Civil Judge (Junior Division) Abohar and learned first Appellate Court that the appellants-defendants have failed to prove that they are bona fide purchasers, are findings of facts and learned counsel for appellants could not assail the same during the course of arguments. He could not point out that the Courts below while recording the above finding have either ignored or misinterpreted any evidence on record. The only plea raised by the appellants was that the sale deed in favour of Pushpa Devi and plaintiff were not recorded in the revenue record and no mutation was sanctioned on the basis of sale deeds in their favour, as such, they had no notice of the sale of suit property in favour of plaintiff, as such, are bona fide purchasers. Plea of appellants has no basis, as suit property is a constructed building and even if, the appellants had gone to the spot and seen the possession over it, they would have come to know that as to who was in possession of the same and in what capacity. The mere fact that no mutation was sanctioned on the basis of sale deed in favour of plaintiff-respondent, is no reason to accept the plea of appellants that they are bona fide purchasers of the suit property.

On perusal of the judgments of the Courts below, I find no legal or factual infirmity therein calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

March 06, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>