

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

RSA No.1004 of 2016 (O&M)

Date of decision: 19.11.2018

Himanshu Mehta

..... Appellant

Versus

Veena Rattan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Shalender Mohan, Advocate
for the appellant.

Ms. Jasneet Mehra, Advocate, for
Mr. L.M. Gulati, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

CM-2749-50-C-2016

Both the applications are allowed and the delay in filing/re-filing the appeal are condoned.

Main Case

Defendant No.2-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Limited grievance of the appellant in the present appeal is to the effect that Haryana Urban Development Authority, the authority which allotted the plot in question is not mutating/changing its record to incorporate the name of the appellant.

No doubt, the sale deed executed in favour of defendant No.2 had been set aside by both the Courts below in a suit filed by respondent No.1 herein, however, in execution petition filed by her, she entered into a

settlement with the appellant and withdrew the execution petition filed by her vide order dated 25.03.2015 Annexure A-6 at page 104 to 106. Respondent No.1 thereafter did file an application for restoration of the execution petition which was dismissed on 11.05.2015. The aforesaid order has not been challenged in any Court as admitted by learned counsel for the respondent, therefore, the decree passed is not executable. Pursuant to a decree passed by the trial Court, Haryana Urban Development Authority-defendant in the suit, respondent herein had entered the property in favour of respondent No.1.

In view of the subsequent development i.e. compromise arrived at during the execution proceedings and the execution having been withdrawn, the authorities are bound to restore its record to the position which existed before filing of the suit.

With these observations, the appeal is disposed of.

19.11.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No