

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.1991 of 2016 (O&M)

Date of decision: 10.08.2018

Naresh Kumar

..... Appellant

Versus

Ludhiana Improvement Trust and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashok Giri, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by both the Courts below seeking declaration that he is a transferee of the plot from defendant No.2 and predecessors-in-interest of defendants No.3 to 8.

The plaintiff claims that he had entered into an agreement to sell with defendant No.2 and predecessors-in-interest of defendants No.3 to 8 and therefore, he should be declared transferee of the plot. It has further claimed that he was appointed General Power of Attorney and a Will was also executed. The defendants No.2 to 8 contested the suit and pleaded that they have never been allotted any plot of 400 sq. yards in lieu of land measuring 1058 sq. yards. They only pleaded that they were allotted a plot against acquisition of land measuring 117 kanals and 6 marlas in 475 acre scheme known as Shaheed Bhagat Singh Nagar Scheme. Learned trial Court after noticing that the suit has been filed after a period of 13 years,

dismissed the suit. The appeal filed was also dismissed.

Learned counsel for the appellant at the time of arguments was confronted with a question i.e. whether on the basis of agreement to sell and General Power of Attorney, can a person be declared to be owner, he only submitted that since the agreement to sell is a total payment agreement, therefore, the entire rights stand transferred in favour of his client. In the considered opinion of this Court, the argument of learned counsel is against well settled law as any right in the immovable property can only be transferred through a registered document as provided under Section 54 of the Transfer of Property Act read with Section 17 of the Indian Registration Act. Reference in this regard can be made to the judgment passed by the Hon'ble Supreme Court in the case of Suraj Lamp & Industries Pvt. Ltd. Vs. State of Haryana and another, 2009(7) SCC 363.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

10.08.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No