

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**R.S.A. No. 1433 of 2015
Date of decision : 15.01.2018**

Prem Nath

....Appellant

versus

Dharam Singh through LR's Major Singh & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Garg, Advocate
for the appellant.

RITU BAHRI, J.

This regular second appeal is directed against the concurrent finding of facts recorded by the Court below whereby the suit of the plaintiff-appellant (herein after to be referred as 'the appellant') for possession of land, has been dismissed.

The version of the appellant before both the Court was that defendant No. 1 being owner of the land measuring 23 kanals 11 marlas being 1/4th share of the land measuring 94 kanals 04 marlas entered into an agreement to sell with the appellant at the rate of Rs.1,75,000/- per killa and in this regard, he executed an agreement to sell dated 23.06.2000 in favour of the appellant and received an amount of Rs.2 lacs, from the appellant as earnest money. The date of execution and registration of sale deed was fixed as 15.06.2001 and the possession was to be handed over at the time of execution of sale deed. The appellant appeared before the Sub Registrar Office, Ludhiana on 14.06.2001. However, defendant No. 1 in connivance with defendant No. 2 and 3 executed three sale deeds dated 17.07.2001, 17.07.2001 and 01.08.2001 whereby he sold

the land measuring 19 K- 0 Marlas and 19 K 01 Marlas to defendant No. 2 and the land measuring 19 Kanals 01 marlas to defendant No. 3.

Both the Courts below dismissed the suit of the appellant. However, he was held entitled to recover Rs.2 lacs from defendant No. 1, as defendant Nos. 2 and 3 have duly proved that they were bona fide purchasers with valuable consideration. This fact was also conceded by the appellant during his cross examination. Further as per documentary evidence adduced in the shape of certified copy of judgment and decree Ex D2 and D3 passed in Civil Suit No. 343 dated 18.12.2001 decided on 05.06.2006 reveals that it was defendant No. 1 who has sought declaration and injunction regarding the sale deeds in favour of defendant Nos. 2 and 3 that these are without consideration. But the suit was dismissed and defendant No. 2 and 3 took the plea of bona fide purchaser and the defendants also placed on record the copy of judgment and decree dated 12.03.2008 D4 and D5 in CS No. 657 dated 28.08.2001 where the defendants were held to be in possession of the suit property. Thus, the mere proving of agreement to sell by the appellant was not held to be not sufficient to dispel the collusion between the appellant and defendant No. 1. The appellant during his cross examination conceded that Om Prakash is his cousin brother and he has business transaction with Om Prakash.

Thus, the finding of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

January 15, 2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No