

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

**RSA No.378 of 2016 (O&M)
Date of Order:17.09.2018**

Ram Singh

..Appellant

Versus

M/s Hind Terminals Private Limited

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Dr. Surya Parkash, Advocate,
for the appellant.**

ANIL KSHETARPAL, J(Oral)

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

In this case, this court is of the opinion that the defendant-appellant is misusing the process of court.

Plaintiff-respondent-company purchased from the owner by registered sale deed dated 05.06.2006, land measuring 68 kanals 3 marlas for a sum of Rs.2,81,37,813/- and possession was taken and office building was constructed apart from constructing a boundary wall.

Defendant-appellant initially filed a suit for injunction claiming that he is in possession as a tenant. In the injunction suit, compromise was arrived at, defendant-appellant and his co-sharers admitted the possession of the plaintiff-company and relinquished whatever rights they had.

Thus, on the basis of compromise injunction suit was withdrawn on 06.06.2007. Defendant-appellant also filed a suit claiming superior right of pre-emption which was also withdrawn on 14.06.2007.

Still further, an execution petition was pending which was also dismissed as satisfied on 09.05.2008.

Defendant-appellant in the present litigation is claiming that he was an occupancy tenant and therefore become owner and hence earlier compromise deeds are erroneous. Defendant-appellant has further pleaded that the plaintiff has played a fraud and the defendant-appellant was to be paid an amount of Rs.2,77,37,813/- which has not been paid.

Both the courts on appreciation of evidence have found that the defence set up by the defendant is factually incorrect.

Learned counsel for the appellant has produced copy of the compromise deed which was filed in the court of Sh. Amrit Singh Chalia, Civil Judge (Jr. Division), Palwal. The aforesaid compromise deed is signed by defendant also. In the aforesaid compromise deed, defendant-appellant and his co-sharer had specifically written that they are left with no right, title or interest in the property and they have received Rs.50,000/-.

Pursuant to the aforesaid compromise deed, execution petition was dismissed as satisfied.

Learned counsel for the appellant submitted that since the defendant-appellant had disputed the aforesaid compromise within one month, therefore, it must be assumed that it was result of fraud. He further submitted that any right in the immovable property cannot be relinquished without a registered document.

It may be noted that defendant-appellant had no right in the land. The land was Banjar land on which there cannot be any occupancy tenant because such land is not cultivable. Still further before the competent court of jurisdiction on more than one occasion, defendant-

appellant has admitted that he has left with no right, title or interest in the property. Hence, the argument of learned counsel that any relinquishment of right in the immovable property cannot be without registered document , is just to be noted and rejected.

Defendant-appellant has become dishonest and is misusing the process of court. As noticed in 3 litigations, defendant-appellant after suffering a statement is time and again taking the same defence, which is not permissible.

Hence, this court does not find any good ground to interfere.

The regular second appeal is dismissed with costs of Rs.50,000/-.

September 17, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No