

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

120

RSA No.3798 of 2016 (O & M)
Date of Decision:22.05.2018

Mohinder Singh

...Appellant

Versus

Bhura Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.K.S. Phoolka, Advocate
for the appellant.

ANIL KSHETARPAL, J.(Oral)

CM-9872-C-2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 37 days in re-filing the appeal is condoned.

Application is allowed.

Main Case

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the Courts below, while decreeing the suit for declaration and permanent injunction.

Plaintiff filed a suit claiming that Sadhu Singh, the original owner and predecessor-in-interest of the defendant-appellant had sold land measuring 10 marlas vide sale deed dated 26.02.1985.

On the other hand, defendant-appellant claims that he was declared owner of land measuring 26 kanals and 13 marlas which also includes 12 marlas from the same khewat.

Both the Courts after examining the evidence available on the

file have found that the sale in favour of the plaintiff-respondent has never been challenged in any proceedings. Therefore, sale in favour of the plaintiff is valid.

Learned trial Court has only observed that an ex parte decree obtained by the defendant-appellant dated 02.11.1998 would not adversely effect the rights of the plaintiff.

Defendant-appellant is son of Sadhu Singh, the vendor, who had sold the property to the plaintiff for valuable consideration by executing the registered sale deed.

Ultimately, both the Courts have only observed that ex parte decree dated 09.11.1998 would not effect the rights of the plaintiff, who is a bona fide purchaser.

Such being the position, there is no ground to interfere.

Hence the regular second appeal is dismissed.

22.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No