

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

103

**RSA No.3841 of 2015 (O&M)
Date of Decision : 26.02.2018**

Amrik Singh

..... Appellant

Versus

Rajiv Mehta and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Surinder Sharma, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by the respondents.

It was the case of the respondents that in the year 1987 one Co-operative Society called Sher-E-Punjab Co-Operative House building Society Limited was incorporated; one of its founder members was one Har Mohinder Singh Suri and in 1987 he was allotted plot No.207 at Bombay Nagar, Village Kingra, Tehsil and District Jalandhar. He paid all the dues and ultimately by a sale deed dated 06.03.2000 the Society executed a sale deed in favour of aforesaid Har Mohinder Singh Suri from whom the respondents had purchased the same by way of registered sale deed of 2005. However, sometime in the year 2007 the appellant started asserting his ownership over the said property prompting him to file the instant suit. The

appellant admitted the incorporation of the society but denied all the averments regarding Har Mohinder Singh Suri and pleaded that in fact he had purchased the property in dispute from the society-respondent No.5 in the year 1996 through a sub attorney of a general attorney of the President. The society-respondent No.5 admitted the claim of the respondent No.1 and denied that set up by the appellant. The respondent No.1 also placed on record material to show that at the time when the sale deed in favour of the appellant was stated to have been executed there was in fact no President as the society-respondent No.5 was functioning within administrator.

Learned counsel has argued that the respondent No.1 did not satisfactorily prove the allegation that at the time when the sale deed in favour of the appellant was executed the society-respondent No.5 was under an administrator. As per him on this score alone a previous suit filed for injunction by the respondent No.1 had been dismissed in which the appellant was held to be in possession.

In my opinion, however, the respondent No.1 had put on record various proofs which, coupled with the stand of the society-respondent No.5, rightly titled the preponderance of probability in his favour. Once the allotment and sale in favour of Har Mohinder Singh Suri was proved the Courts rightly held that the society-respondent No.5 had no power to execute any document in favour of the appellant.

Learned counsel has not been able to challenge this finding. Once that is so the fact that the respondent No.1 was not able to prove satisfactorily that on the date in question the society-respondent No.5 was functioning under an administrator would pale into insignificance.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

26.02.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No