

RSA Nos.6537 & 6538 of 2016 (O&M)

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

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RSA No.6537 of 2016 (O&M)

Date of Decision : 14.12.2018

[1]

DARSHAN SINGH

....APPELLANT

V/S

**THE KACHROLI CO-OPERATIVE GARDEN SOCIETY LIMITED,
KACHROLI, TEHSIL AND DISTRICT PANIPAT AND OTHERS**

....RESPONDENTS

[2]

RSA No.6538 of 2016 (O&M)

DARSHAN SINGH

....APPELLANT

V/S

**THE KACHROLI CO-OPERATIVE GARDEN SOCIETY LIMITED,
KACHROLI, TEHSIL AND DISTRICT PANIPAT AND OTHERS**

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. C.B. Goel, Advocate for the appellants
in both the appeals.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two regular second appeals at the instance of the appellant-plaintiff, who was not successful in Civil Suit No.95 of 2015, challenging the sale deeds executed by defendant No.1-Society in respect of different parcels of land.

Plaintiff allegedly challenged on the premise that because the

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object of the Society/defendant No.1 for development of garden and improving the methods of Horticulture, a false/fabricated Resolution No.4, dated 25.05.2008, was got prepared, authorizing officer concerned to sell the suit property @ Rs.1,06,25,000/-, vide registered sale deed No.4135 dated 08.08.2008 to defendant No.7, another chunk of land was sold vide sale deed No.4133, dated 08.08.2008 for Rs.40 lacs to defendant Nos.8 and third piece of land was sold @ Rs.28,62,500/- vide sale deed bearing vasika No.4134, dated 08.08.2008 to defendant No.9 which was far less than the market price, and also, neither Shri Nitin Sen Bhatia and Shri Manmohan Marwaha were elected as President and Secretary respectively of the Society nor auction was ever conducted at the time of sale of suit property.

Defendants filed the written statement and took the plea of maintainability and stated that the society had executed sale deeds as per the resolution as the land belongs to *mushtarka malkan* and not to the society. Sale deed was registered way back in the year 1995 but the suit filed in 2010 and, therefore, was barred by law of limitation.

Mr. C.B. Goel, learned counsel appearing on behalf of the appellants submitted that judgment and decrees of both the Courts below are not sustainable in the eyes of law as Section 89 of the Haryana Co-operative Societies Act, 1984 prohibited the sale of every land belonging to the Society without the approval of the Registrar. There is no limitation for challenging the sale deed, therefore, suit could not have been dismissed. Even the objections for limitation could not have been taken.

I am afraid as the aforementioned argument is not sustainable in the eyes of law as the appellant-plaintiff has not been able to establish

possession over the suit property. Society runs through resolutions and bye

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laws. It was for the Registrar to take action and not the plaintiff. Even if the Administrator was appointed, the plaintiff would not have the *locus standi*. The sale deeds are of the year 1995 whereafter the suit have been filed in 2010. Registered documents as per the provisions of Article 58 of the limitation was required to be challenged within a period of three years. In view of the above, I am of the view that the findings of the fact and law arrive at by both the Courts below does not suffers from any illegality much less no substantial question of law arises for determination.

The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

December 14, 2018

rajneesh

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No