

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.6651 of 2016 (O&M)

Date of decision: 27.08.2018

Surekha and another

..... Appellants

Versus

Gurmeet Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vipin Mahajan, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the concurrent finding of fact arrived at by both the Courts below.

The question which needs consideration is:-

“Whether rule of lis pendence applies even if the suit or proceedings are collusive.”

The plaintiffs claimed that the husband of defendant No.3 who was their real uncle had forged a Will of their mother Kartaro @ Janak Dulari. The plaintiffs are alleged to have filed a previous suit challenging the aforesaid forged Will. It is claimed that during the pendency of the previous suit, a compromise was arrived at on 15.06.2002. It is claimed that Parveen Singh, their uncle, thereafter sold the property in favour of defendants No.1 and 2 on 18.09.2002. It is further claimed that the previous suit filed by the plaintiffs was decreed on 18.10.2003.

Both the Courts below have found that defendants No.1 and 2

are bona fide purchasers. It is not in dispute that the plaintiffs neither got registered any criminal case nor ever initiated proceedings for recovery of the amount against their uncle. Hence, it is apparent that the earlier decree obtained was not on merits but on account of collusion between them as has been found by the Courts below.

In view thereof, there is no ground to interfere with the concurrent finding of fact arrived at by both the Courts below.

Appeal is dismissed.

27.08.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No