

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

**(1) RSA No.5264 of 2015 (O&M)
Date of Order:25.05.2018**

Ranbir Singh Dhiman and Sons

..Appellant

Versus

**Punjab Urban Planning and Development
Authority and others**

..Respondents

(2) RSA NO.1860 of 2016 (O&M)

Jagan Nath

...Appellant

Versus

**Punjab Urban Planning and Development
Authority and others**

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Jag Nahar Singh, Advocate,
for the appellant (in RSA No.5264 of 2015)**

**Mr. J.S.Bhandohal, Advocate,
for the appellant (in RSA No.1860 of 2016)**

ANIL KSHETARPAL, J(Oral)

By this judgment, Regular Second Appeal Nos.5264 of 2015
and 1860 of 2016 shall stand disposed of.

Dispute in this case is with regard to passing of a valid title in
favour of decree holder who had purchased the property of the judgment
debtor in a court auction held on 16.10.1993.

Punjab Urban Planning and Development Authority had filed a
suit claiming that the property in dispute did not vest in the judgment

debtors and the property at the hands of judgment debtors already stood resumed vide order dated 19.05.1978

Defendant no.1 had instituted a suit against defendant no.2 for recovery of certain amount which was decreed and in execution the property in dispute was attached and sold without realizing that the property does not belong to defendant no.2-appellant in RSA No.1860 of 2016.

Both the courts have examined the evidence available on the file and have found as a matter of fact that the plot in dispute which was originally allotted to Smt. Nirmal Verma which had been resumed on 19.05.1978 and defendant no.2 who was claiming to agreement holder for Smt. Nirmal Verma was not the owner of the property.

This court has heard learned counsel for the appellants in both the appeals at length and with their able assistance gone through the paper books.

Learned counsel for the appellant in RSA No.5264 of 2015 has submitted that his clients are bonafide purchasers in the court auction and therefore, rights of his clients should be protected under Section 41 of the Transfer of Property Act. He submitted that there is no dispute about the court decree and in execution thereof, sale of the property in favour of his clients.

It is well settled that no one can pass better title than what he himself has. In the present case, JD had no title in the property at any point of time. In fact property was resumed more than decade back in favour of Punjab Urban Development Authority. It is a different matter that defendant no.2 continued in possession wrongly which has resulted into this litigation.

On the other hand, learned counsel for the appellant in RSA No.1860 of 2016, has submitted that the property was allotted to Smt. Nirmal Verma and the order passed by the authorities resuming the property was illegal.

In the considered opinion of this court, unless and until, the order of resumption of the immovable property is challenged in the appropriate proceedings, the court cannot opine the validity thereof. The order of resumption was passed in the year 1978 and 40 years have elapsed

In view of the aforesaid, there is no scope for interference.

Both the regular second appeals are dismissed.

May 25, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No