

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

RSA No.2742 of 2014

Date of Decision:-04.05.2018

Imrat alias Shiv Lal

...Appellant

Versus

Smt. Phool Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY TEWARI

Present:- Mr. Sudhir Aggarwal, Advocate
for the appellant.

Mrs. Amita Gupta, Advocate
for the respondents.

AJAY TEWARI J.(Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing the suit filed by the respondents. Respondent No.1 had filed the suit against the appellant and Bijender Singh Thakran. Respondent No.1-plaintiff had claimed declaration that she is owner in possession of land measuring 9 Kanal 15 Marlas situated at Pataudi and had sought mandatory injunction directing the appellant to hand over the possession of the land to her.

It was her case that at one stage her son Bijender had succeeded in obtaining a fraudulent award from the Permanent Lok Adalat to the effect that he had become the owner of the suit land. That award was

challenged and ultimately the Supreme Court set aside that award and directed the trial Court to decide the suit on merits and ultimately the suit was dismissed. During this interregnum, Bijender Singh sold the property to the appellant in collusion. The case of the appellant on the other hand was that he was a bona fide purchaser for value and was consequently protected. The Courts below held that the appellant was not a bona fide purchaser. The first reason which weighed with the Courts below was that even the award in favour of Bijender Singh stipulated that it had to be registered. The Courts also found that the appellant had admitted that he had not made any inquiries from anybody regarding the land. The Courts below further noticed that he had admitted that even earlier he had purchased land from that very family and consequently held that he must have known about the tussle between mother and the son. Learned counsel has argued that once the land was mutated in favour of Bijender and the appellant had confirmed that mutation, he had fulfilled the duty of bona fide purchaser.

In my opinion, this argument is not complete. On the first face, the mutation did not confer any title, and secondly, as noticed by the Courts below, the award on which Bijender Singh based his title, itself carried a stipulation that it was to be registered and the Courts below were right in doubting the fides of the appellant since he did not insist on the vendor to get the award registered.

In these circumstances, the arguments that the appellant was a bona fide purchaser, is rejected. Learned counsel then argued that once the

respondent knew that Bijender had made a sale deed in his favour, it was incumbent upon her to challenge the sale deed and, not having done so, the suit was not maintainable. In this connection, learned counsel for the respondents relied upon **Surinder Kaur vs. Ram Narula and others 2016 (154) DRJ 426 [DB]**. In this case, a Division Bench of Delhi High Court has held that if the plaintiff was not party to a sale deed, it was not incumbent upon him to challenge the sale deed in a suit for title.

Counsel for the appellant has not been able to cite any contrary judgment.

In these circumstances, the appeal stands dismissed.

May 04, 2018
Vijay Asija

(**AJAY TEWARI**)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No