

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2478 of 2017 (O&M)
Date of decision : May 11, 2018

Surinder Kaur and others

..... Appellants

Versus

Rishal Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjiv Kumar Aggarwal , Advocate
for the appellants.

Mr. Ivneet Singh Pabla, Advocate
for the respondent-caveator.

AMIT RAWAL, J (oral).

The appellants-plaintiffs are in Regular Second Appeal against dismissal of the suit seeking specific performance of the agreement to sell dated 29.12.2005 in respect of land measuring 20 Marlas i.e. 1 Kanal which has been dismissed by the trial court and affirmed by the lower appellate court. There is a caveat in this case represented by Mr. Pabla.

Learned counsel appearing on behalf of the appellants-plaintiffs submits that as per the agreement to sell dated 29.12.2005 the respondent-defendant had agreed to sell the land measuring 1 Kanal which was subject matter of acquisition by HUDA and had received a consideration of Rs. 10 lacs. However, with regard to other land measuring 1 Kanal the plaintiffs had already got the sale deed executed on 29.12.2005 against a consideration of Rs. 7,26,000/-.

The land which is subject matter of dispute was released by HUDA on 11.10.2007 which gave cause of action to institute the suit on

17.7.2010, for, with regard to 10 Marlas of which Rishal Singh was the owner executed the sale deed dated 14.6.2010 and other half share was owned by Jai Bhagwan. The plaintiffs did not come to know that on 10.6.2010 Rishal Singh had acquired ownership of land measuring 10 Marlas from Jai Bhagwan. It is in that background that the suit was filed.

Mr. Pabla, learned counsel appearing on behalf of the respondent submits that if at all there was a dispute with regard to the remaining land of 10 Marlas the plaintiffs would not have been satisfied with the sale deed dated 14.6.2010 as Rishal Singh was not owner of the land measuring 10 Marlas at the time of entering into the agreement to sell and urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and of the view that on simple reading of the agreement to sell dated 29.12.2005, Ex. P-3 wherein it is clearly mentioned that Rishal Singh had acquired the ownership of the remaining 10 Marlas of land from Jai Bhagwan. For all intents and purposes Rishal Singh was not owner of the land at the time when the agreement to sell was entered into.

During the course of hearing it has been brought to the notice of the Court that there was an agreement to sell between Jai Bhagwan and Rishal Singh, therefore plaintiff could not seek execution and registration of the sale deed viz-a-viz 10 Marlas of land in the absence of any contract between him and Jai Bhagwan, if the contract was only entered into by the plaintiffs with Rishal Singh qua his ownership. This is what is the finding of fact arrived at by the courts below. The plaintiff could not be compelled to get the sale deed of 10 Marlas of land from Rishal Singh for which he was owner vide sale deed dated 14.6.2010 nor he made a

reasonable enquiry while filing the suit dated 17.7.2010 that Rishal Singh has acquired ownership.

In the absence of any evidence, dismissal of the suit viz-a-viz other piece of 10 Marlas of land the arguments of learned counsel for the appellants have not been able to bring the case within the realm of illegality and perversity enabling this Court to form the different opinion than the one arrived at by the Courts below which are based upon the appreciation of oral and documentary evidence.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

May 11, 2018
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No