

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2859 of 2017 (O&M)

Date of Decision: December 06, 2018

The State of Punjab & another

...Appellants

Versus

Nirmal Kaur (since deceased) through L.Rs & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Mehardeep Singh, Addl.Advocate General, Punjab,
for the appellants.

AMIT RAWAL, J. (Oral)

Appellant-State has not been successful in defending the decree of declaration conferring the plaintiff to be owner in possession of plot measuring 2 marlas 2 sarsahi out of Khasra No.352 (1-1) as per jamabandi for the year 1995-96 with consequential relief of restraint against the defendants from alienating the suit property.

The aforementioned relief was sought on the premise that vide sale certificate dated 01.07.1964, Managing Officer (Sales) Jalandhar had allotted the land to Bashamber Nath. The aforementioned sale certificate contained the description of the property. Husband of the plaintiff purchased the land vide sale deed dated 19.01.1966 and after consolidation, said plot was converted into Khasra No.352 (1-1) comprising of Khewat No.1178 and the plaintiff had been in actual physical possession of the same. The suit property is situated in urban estate, but Khasra No.352 was not mentioned in the sale certificate. In this regard, many representations

were sent to the Government, but did not yield any result. Even a legal notice dated 08.11.2004 was also served.

The defendants opposed the suit and alleged that the disputed land was in the ownership of the Central Government and never purchased by the plaintiff.

Plaintiff, in support of the aforementioned pleadings, examined seven witnesses and brought on record Ex.P1 to Ex.P24, i.e., revenue record, khasra girdawaries, legal notice, receipts, sale deeds etc.

On the other hand, defendants examined one Harkaram Singh as DW-1 and closed the evidence.

On the preponderance of the evidence, the trial court decreed the suit. The appeal taken before the Lower Appellate Court was also dismissed.

Mr. Mehardeep Singh, learned Additional Advocate General, Punjab representing the State has drawn the attention of this court to the application seeking condonation of delay of 320 days in filing the appeal on the premise that the legal opinion in respect of the judgment and decree dated 02.02.2016 rendered by the Lower Appellate Court was given on 23.02.2016 and thereafter the comments of the department were being sought and ultimately on receipt of the comments, sanction was granted on 13.10.2016. Even the certified copy provided to the office of Advocate General was not traceable and again certified copy was applied and in this process, delay of 320 days occurred.

On merits, it has been submitted that the findings of fact and law arrived at by the courts below are not sustainable as the plaintiff miserably failed to prove the sale certificate as no witness from the

concerned department has been examined. In the absence of proof of ownership of the predecessor-in-interest of the husband of the plaintiff, the sale deed would pale into insignificance.

I am afraid that the aforementioned argument is not sustainable, for, as per the findings of fact and law, the sale certificate dated 01.07.1964 has been proved on record to establish that Bishamber Nath had already deposited a sum of ₹ 6300/-. Even the allotment of new khasra numbers in lieu of old one, has been proved on record, much less possession through revenue record. There would be some force in the argument of the learned State Counsel had sufficient evidence been placed on record to belie the authenticity and genuinenity of the sale certificate. The description of the property in the sale deed is in consonance with the sale certificate. The identity of the property is not under challenge.

For the reasons mentioned above, I do not find any illegality or perversity in the concurrent findings of fact and law arrived at by the courts below. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed on delay and as well as on merit.

December 06, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No