

RSA No.4749 of 2017 (O&M)

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

RSA No.4749 of 2017 (O&M)

Date of decision: 21.02.2018

Om Parkash

.....Appellant

versus

Parbhati and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. M.L. Sharma, Advocate, and
Mr. Sushil K. Sharma, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

After remaining unsuccessful before both the Courts below, plaintiff has preferred this Regular Second Appeal assailing the judgment and decree of the First Appellate Court dated 16.05.2017, affirming the judgment and decree of the trial Court dated 30.10.2014 dismissing his suit.

Put pithily, the appellant-plaintiff purchased 40 kanals 10 marlas of land vide registered sale deed No.1418 dated 17.09.1990 comprising specific khasra numbers, including khasra No.25(3-12) situated at Village Malahera, Sub Tehsil Dharuhera, Tehsil and District Rewari, from vendors namely, Jai Lal, Ganpat and Dharam Singh sons of Har Lal out of their entire holding measuring 272 kanals 16 marlas as per jamabandi for the year 1988-89 and got sanctioned mutation No.246 on 30.09.1990. However, when respondents No.1 to 10 came to know about the said mutation in favour of the appellant, they got reviewed the same on the ground that the vendors of the appellant had no right to sell specific khasra No.25(3-12) as

they had already sold the same to respondents No.1 to 10 vide sale deed in

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the year 1982 got executed through Court.

On setting aside aforesaid mutation No.246 in favour of the appellant by revenue authorities, appellant filed a suit for declaration and permanent injunction against their vendors or their legal heirs as well as respondents No.1 to 10, who had purchased 25 kanals 19 marlas of land in the year 1982 and had got the sale deed executed through Court pleading that mutation No.246 could not have been set aside by the revenue authorities without notice to him.

The trial Court after holding trial, dismissed the suit of the appellant vide impugned judgment and decree dated 30.10.2014. Being aggrieved, appellant approached First Appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment and decree dated 16.05.2017.

Learned counsel for the appellant contends that if sale deed in favour of respondents No.1 to 10 qua khasra No.25(3-12) is not set aside, entire land of the appellant measuring 40 kanals 10 marals would go waste, because same shall have no passage.

Having given considerable thought to the submission made by learned counsel for the appellant, I find the instant appeal completely devoid of any merit for the reasons to follow.

Undisputedly, khasra No.25(3-12) had already been sold by the vendors of the appellant-plaintiff to respondents No.1 to 10 vide agreement to sell in the year 1981, which was got implemented by filing a suit by them for specific performance and sale deed was got executed in their favour by the Court in the year 1982.

Therefore, it is clearly evident on the record that vendors of the

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appellant-plaintiff had left with no title over the aforesaid khasra No.25(3-12). There are concurrent findings against the appellant of both the Courts below qua this fact.

I have gone through the impugned judgments of both the Courts below and find no illegality or perversity in the same.

No question of law muchless substantial has been raised or arises for consideration in this appeal.

Resultantly, this appeal being devoid of any merit, is hereby dismissed.

February 21, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.