

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

-.-

RSA 6414 of 2017 (O&M)
Date of decision: 17.10.2018

Sarabjit Kaur

.....Appellant

vs

Hardeep Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present : Mr. Gaurav Sharma, Advocate
for the appellant

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit filed by respondents/plaintiffs Hardeep Singh and another for correction of revenue entries qua share of the plaintiffs in respect of land measuring 72 kanal, detailed in head note of the plaint on the basis of compromise decree dated 21.05.1990 passed by the District Judge, Sangrur and challenge to sale made by defendants No. 4 and 5 to Smt. Sarabjit Kaur - defendant No. 6/appellant on 22.06.2011 with relief of permanent injunction restraining defendants No. 4 and 5 not to alienate more than 1 kanal 5 marla out of land measuring 72 kanal as per *jamabandi* for the year 2005-06 was decreed by the trial Court vide judgment and decree dated 15.01.2016 that came to be affirmed in appeal by the Additional District Judge, Sangrur on 04.05.2017 as the appeal preferred by defendant No. 6/appellant did not find favour with the appellate Court.

Counsel for the appellant would urge that as respondents/plaintiffs filed a simpliciter suit for declaration without claiming relief of possession which was delivered to Smt. Sarabjit Kaur by her vendors, the suit is hit by proviso appended to Section 34 of the Specific Relief Act, 1963. Another submission made by counsel is that entries in the revenue record were made since 1996-97 onwards but sought to be corrected by instituting a suit on 12.06.2010, therefore, suit filed by the respondents/plaintiffs is barred by limitation.

I have heard counsel for the appellant and perused the paper book particularly the judgments impugned.

Sarabjit Kaur, the present appellant had purchased 4 kanal 10 marla land out of 72 kanal vide sale deed dated 22.06.2011, executed by defendants No. 4 and 5 during pendency of the suit, therefore, sale in her favour is hit by principles of *lis pendence*. Sarabjit Kaur has no independent right to raise any defence in the given scenario. This apart, as the respondents/plaintiffs are co-owners in total land measuring 72 kanal and a sale by one of the co-owners is deemed to be sale of a share and vendee from a co-owner cannot have a better right than his vendor, since the respondents being co-owners would be deemed to be in possession of every inch of joint land, failure of the respondents to seek relief of joint possession is of no consequence.

The plea of the appellant that the suit filed by the respondents being barred by limitation is fallacious and misconceived as revenue entries neither create nor extinguish title in land and incorrect entries can be challenged at any point of time as and when the aggrieved party comes

to know of revenue entries being wrong. In this view of the matter, contention raised by counsel for the appellant with regard to the suit being barred by limitation is devoid of merit and accordingly rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*.

As the appeal has been decided on merits, application for condonation of delay in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

17.10.2018
mohan bimbura