

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 718 of 2018(O&M)

Date of Decision: 05.07.2018

Inderjit Singh

---Appellant

versus

Raghbir Singh Kalsi and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Balbir Singh Jaswal, Advocate
for the appellant**

**Mr. Deepak Nayyar, Advocate,
for caveator-respondent No.1**

Rekha Mittal, J.

CM No. 1783-CII of 2018

Prayer in this application is for condoning delay of 15 days in
refiling the appeal.

Allowed as prayed for. Delay of 15 days in refiling the appeal
stands condoned.

RSA No. 718 of 2018

Inderjit Singh, the subsequent purchaser of suit land plus some
other land is in appeal to assail concurrent findings recorded by the courts
whereby suit for possession by way of specific performance of agreement to
sell dated 28.6.2005 regarding house measuring 155 square yards, detailed
in head note of the plaint, was decreed in favour of respondent No.
1/plaintiff vide judgment and decree dated 25.9.2015 passed by the trial

court and appeal preferred by the appellant against the judgment and decree of the trial court did not find favour with the Additional District Judge, Amritsar.

The sole submission made by counsel for the appellant is that as the appellant is a bona fide purchaser of land measuring 300 square yards including the suit land vide sale deed dated 30.6.2006 executed by respondent No. 2/defendant No. 1, on payment of valuable consideration of Rs. 3,60,000/- without notice of alleged agreement of sale purported to be executed by respondent No. 2 in favour of respondent No. 1, findings of the courts on issue No. 5 are liable to be set aside and suit filed by the respondent-plaintiff may be dismissed. To substantiate his contention, it is argued that Raghbir Singh plaintiff appeared in the witness box and in his cross examination, he had admitted that the appellant did not know about agreement to sell dated 28.6.2005 between Roshan Lal Bhatia defendant No. 1 and Raghbir Singh Kalsi plaintiff in the suit.

Counsel for caveator-respondent No. 1, in response to order dated 1.6.2018 passed by this Court, would state that he never represented appellant Inderjit Singh in civil revision arising out of the same litigation. He has supported the consistent findings recorded by the courts whereby claim of the respondent-plaintiff for possession by way of specific performance of agreement to sell dated 28.6.2005 has been allowed and plea of the appellant with regard to his being bona fide purchaser for consideration and without notice has been rejected.

I have heard counsel for the parties, perused the paper book and the documents supplied during course of hearing, correctness whereof has been admitted by counsel for the parties.

The Court in Appeal in para 17 of the judgment has held,
quoted thus:-

“I have considered the arguments. Since, in the present case, defendant No. 1 died and none has appeared on his behalf. Present appellant is subsequent vendee, who has put forward his case that he has purchased the plot in question for a valuable consideration being a bonafide purchaser. Since, evidence of plaintiff to prove the due execution of agreement to sell has gone unrebutted and same has been proved by the marginal witnesses. The readiness and willingness of the plaintiff has been duly proved and as such agreement in question has been duly proved according to the provisions of law. Defendant no. 2 himself has not stepped into witness box rather his attorney has turned up for deposing in the court. Power of attorney Ex. DW4/5 not show as to regarding which property it pertains to. DW-4 Santokh Singh, attorney of appellant/defendant has admitted that deal for sale of property was brokered through their relative Satnam Singh and he was not present at the time of sale deed and amount was also given by Satnam Singh. He has further stated that he does not know the whereabouts of Satnam Singh and interestingly the parentage of Satnam Singh is not mentioned in the sale deed. Santokh Singh DW-4 has failed to prove consideration passed between the vendee and vendor. So, bonafide on the part of the appellant/defendant has not been duly proved and as such trial court has rightly decreed the suit of the plaintiff.”

Counsel for the appellant is not in a position to challenge correctness of factual findings recorded by the Court in Appeal in the aforesaid extract. As the appellant himself did not appear in the witness box to substantiate his plea with regard to the inquiries made by him before purchasing the suit property or payment of sale consideration incorporated in the sale deed, I do not find any reason to differ with findings of the Court in Appeal affirming those of the trial court that the appellant has failed to establish his claim that he is a bona fide purchaser for consideration and without notice of the previous agreement to sell. In this view of the matter, the appellant cannot derive any advantage to his contention from the fact recorded in the statement of respondent/plaintiff, highlighted by counsel, for setting aside the concurrent findings of the courts.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

05.07.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No