

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

RSA No. 3176 of 2019(O&M)

Date of decision: 8.7.2019

Dwarka Parshad

.....Appellant

VERSUS

Prem Lata and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Harsimran Aulakh, Advocate for the appellant.

REKHA MITTAL, J.

Challenge in the present appeal has been directed against judgment and decree dated 20.05.2019 passed by the Additional District Judge, Fatehabad whereby appeals against the judgment and decree dated 06.03.2014 passed by the Additional Civil Judge (Senior Division), Fatehabad were allowed, judgment and decree dated 06.03.2014 were set aside and Civil Suit No.367 of 2004/2007 titled Dwarka Parshad Vs. Prem Lata etc. was dismissed and consolidated suit bearing No.368-C of 2005/2006/2007 captioned Smt. Prem Lata Vs. State of Haryana etc. was decreed. Further, revenue authorities were directed to make entries of suit land in the name of appellant- Prem Lata on the basis of judgment and decree dated 31.03.2002 passed in Civil Suit No.468-C of 1998 and consequent sale deed executed in her favour through process of the Court.

The sole submission made by counsel for the appellant is that as plaintiff Dwarka Parshad is a bona fide transferee of suit land measuring 26 kanal 5 marlas on the basis of oral exchange between him and legal

heirs of Sadhu Ram and Narota Ram in whose favour mutation No.3951 dated 06.05.1967 was sanctioned, the Appellate Court committed a gross error rather perversity by setting aside the judgment and decree passed by the trial Court declaring the appellant to be owner in possession of suit land.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts.

The Appellate Court, on a detailed consideration of pleadings of the parties, oral and documentary evidence on record, had rightly concluded that the appellant has failed to establish his plea that he is a bona fide transferee and entitle to be declared as owner of the suit land. Indisputably, the appellant has asserted his right of ownership to the suit land on the basis of oral exchange purported to be effected between the appellant and successors in interest of Sadhu Ram and Narota Ram in regard whereof mutation No.1816 dated 21.03.1997 Ex.P1 was sanctioned in favour of the appellant.

Counsel for the appellant, in response to a query, is not in a position to dispute that oral exchange is permissible in the State of Haryana but there should be delivery of possession of the exchanged land contemporaneously. In the case at hand, legal heirs of Sadhu Ram and Narota Ram were not in possession of the suit land which is recorded to be in possession of Lekh Raj, husband of respondent Prem Lata and he is recorded to be a tenant in the suit land long ago before the alleged oral exchange in the year 1997. The appellant has also prayed for a decree of possession, sufficient to prove that possession of suit land was not delivered to him at the time of alleged oral exchange. That being so, no

such plea of bona fide transferee on the basis of alleged oral exchange is otherwise sustainable in the eye of law. Analyzed from any angle, I find it difficult to accept contention of the appellant that judgment passed by the Court in appeal either suffer from an error or perversity much less a question of law is emerged that requires determination in second appeal.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

JULY 8, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no