

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

RSA No.1344 of 2005 (O&M)

Date of decision : 14.01.2019

Avtar Kaur (deceased) through her LRs

...Appellant

Versus

Tehsildar Sales, Phillaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. O.P. Hoshiarpuri, Advocate for the appellant.

Mr. Sandeep Vermani, Addl. A.G. Punjab
for respondent Nos.1 and 2.

Ms. Upasna Dhawan, Advocate
for respondent Nos.3 to 7 and 9.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellants are in the Regular Second Appeal against the finding of fact arrived at by the First Appellate Court.

Learned First Appellate Court has found that the sale in favour of the plaintiff is in violation of the restriction imposed in the Memorandum of Restriction which was part of terms of auction held on 15.10.1975. Ex.DW3/A and Ex.DW3/C are two documents which contained the memorandum of restricted sale and condition No.6 specifically debars the sale of the property to a Non-Scheduled Caste person. State Government noticing that the sale deed has been executed within the prohibited period, has cancelled the same.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below and the record.

No doubt, the Punjab Package Deal Properties (Disposal) Act, 1976 came into force w.e.f 19.04.1976 but once in the Memorandum of restricted sale, which took place on 15.10.1975, there was restriction on the auction purchaser to sell the property to any person who does not belong to Non-Scheduled Caste category, this Court does not find any error in the judgment passed by the First Appellate Court.

Hence, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

14.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No