

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

-.-

LPA No. 363 of 2017 (O&M)

Date of decision: 15.01.2019

Amrik Singh & Ors.

... Appellants

Vs.

State of Haryana & Ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Ashwani Bakshi, and Ms. Ritu Puri, Advocates,
for the appellants.

Mr. Ankur Mittal, Addl. A.G. Haryana.

Mr. Atul Lakhanpal, Sr. Advocate, with
Mr. R.S. Chahal, Advocate, for respondent No.7.

MAHESH GROVER, J. (Oral)

The father of respondent No.7 was a big land-owner. He had gifted some of his land to his wife and his two sons, one of them being minor whose entitlement came to 47 Kanals and 19 Marlas. His land was under occupation of tenants who intended to purchase it which they did after arriving at a settlement with the mother of respondent No.7 during the time when he was a minor. On attaining majority, he questioned the sale of the same from his mother in favour of the tenants by filing a civil suit which was dismissed. His first appeal was also dismissed but in Regular Second Appeal which he filed in the year 1983 the following order was passed:-

“15. For the aforementioned reasons, these five appeals are allowed, the judgment and decree of the lower appellate Court are set aside and ignoring the void order passed by the Assistant Collector dated June 15, 1960, a decree of symbolical possession in each of the five cases is passed in appellant's favour against the tenants. There will no order as to costs.”

SLP was also preferred, which was dismissed on 15.05.1997.

The present petitioners purchased this portion having 47 Kanals and 19 Marlas and also some other portion of the land from the erstwhile tenants who sold it to them in the capacity of owners, claiming their right on the basis of sale made by the mother of respondent No.7. The sale was effected in favour of the present petitioners in 1984 and 1987.

These facts would clearly show that in 1983 the erstwhile tenant who had purchased the land from the mother of Respondent No.7 mother stood divested of their ownership rights by the decision in the regular second appeal rendered in 1983. Evidently they could not have sold anything in 1984, much less in 1987. The sale of 47 Kanals and 19 marlas would straightly hit and the present petitioners claiming themselves to be bonafide purchasers would have the remedy of seeking damages or any other remedy against their vendors but so far as respondent No.7 is concerned he cannot be denied his claim to the said land in terms of the decision of the regular second appeal. The petitioners would forthwith relinquish their claim qua this portion of land in favour of respondent No.7

i.e. 47 Kanals and 19 Marlas.

In this view of the matter, we do not find any infirmity regarding the findings recorded by the learned Single Judge. The order of the writ Court be given effect.

Disposed of.

(MAHESH GROVER)
JUDGE

January 15, 2018
tripti

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No