

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

RSA No.2537 of 2016 (O&M)

Date of Decision.24.05.2019

Prem Goyal and another

...Appellants

Vs

Rajan Jindal and another

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. V.B. Aggarwal, Advocate
for the appellants.

Mr. Tarun Singh Lehal, Advocate
for the caveator/respondent.

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AMIT RAWAL J. (ORAL)

C.M. No.6734-C of 2016

For the reasons stated in the application, delay of 18 days
in re-filing of the appeal is condoned.

Application is allowed.

C.M. No.6735-C of 2016

For the reasons stated in the application, delay of 7 days
in filing of the appeal is condoned.

Application is allowed.

RSA No.2537 of 2016

The present regular second appeal is directed against the
concurrent finding of fact whereby the suit of the respondent-plaintiff
for declaration has been allowed.

The respondent-plaintiff alleged that defendant No.3 by
impersonating sold the land belonged to him vide impugned sale

deeds dated 23.10.2008 and 10.02.2009 to defendants No.1 and 2. In fact, he had purchased the suit property from Harinder Singh Grewal through his power of attorney Ravinder Singh vide sale deed dated 30.07.2004, thus, became absolute of the property. On acquiring the knowledge, suit was filed in 2009.

Defendant No.3 intentionally did not contest the suit and proceeded ex parte whereas defendants No.1 and 2 filed joint written statement alleging themselves to be bona fide purchasers and spent a sum of ₹1 lakh by installing hand pump etc.

The trial Court framed as many as eight issues.

Plaintiff in support of pleadings examined three witnesses and brought on record Ex.P1 to P7 i.e. copies of sale deeds, photographs, passport, PAN Card and electricity bill whereas defendants did not lead evidence after having availed opportunities and their evidence was closed.

Mr. V.B. Aggarwal, learned counsel appearing on behalf of the appellant submitted that zimni orders reflected that on 19.05.2014, respondent-plaintiff concluded his evidence and the case was listed for defendants' evidence. Within a span of one month, after granting three opportunities, evidence of defendants was closed. No sufficient opportunities were granted, as the defendants have to lead evidence to belie the claim of the plaintiff.

I am afraid aforementioned argument would not sustainable, as grounds of appeal remained bereft of intended evidence to be led, had opportunity been given nor was accompanied by an application for additional evidence. The trial Court while

noticing the aforementioned contention in para 12 observed that the appellant-defendant No.2 had also filed civil suit Ex.P7 against defendant No.3 alleging fraud. That was the best evidence for consideration. The defendants are blowing proportion out of nothing, in view of the categoric admission made in the plaint Ex.P7.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 24, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No