

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

**RSA No.3874 of 2016 (O&M)
Date of Decision.07.02.2019**

Bir Singh

...Appellant

Vs

Nirmala @ Rameshwari and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Keshav Pratap Singh, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration of ownership in respect of the property in dispute alleged to have been purchased from Daya Nand vide sale deed dated 14.03.1984 but was able to succeed in restraining the defendants from forcible dispossession except in due course of law.

Plaintiff alleged that Daya Nand had sold property measuring 5 marlas consisting of two rooms. Plaintiff was a bona fide purchaser for a valuable consideration, though at the time of sale deed, four mutations of inheritance in favour of Nand Lal were sanctioned wherein defendants counter-claimants were also recorded as successors in interest of Nand Lal.

The defendants opposed the suit and also set up a counter-claim alleging Nand Lal, their father and of Daya Nand died intestate and therefore, they had right of survivorship, which could not have been alienated by Daya Nand in absolute terms.

Both parties led evidence, resulting into the decision

noticed above.

Mr. Keshav Pratap Singh, learned counsel appearing on behalf of the appellant-plaintiff submitted that defendants/counter-claimants eschewed from challenging the sale deed as late as in 2007 when the suit was filed by setting up a counter-claim. A registered document was required to be challenged within three years. Even if assuming the law of inheritance, there is no limitation asserting right of inheritance as law of acquiescence would definitely apply. Defendants in the evidence admitted that there was a family settlement whereby Daya Nand was given two shops, though details of other properties had not come on record. All these factors if looked into correct perspective, counter-claim would have been rejected.

I am afraid aforementioned argument is not sustainable, as plaintiff cannot be said to be a bona fide purchaser for a valuable consideration, for, on the date of sale, there was no mutation of entire property in favour of Daya Nand son of Nand Lal, brother of the defendants/counter-claimants. It is settled law that if a person, who does not have any right and title and sells share of others, that can always be challenged and there is no limitation to that effect. Even otherwise, counter-claim was based on law of inheritance and therefore, could not have been hit by law of limitation. A person may not be able to withstand the cross-examination conducted by lawyers having legal acumen but the fact of the matter is that no settlement seen light of the day nor was a case set up by the plaintiff.

All these factors, if looked into cumulatively, I am of the

view that judgments and decrees rendered by the Courts below cannot be said to be suffering from any illegality and perversity, 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

February 07, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No