

RSA- 1027 of 2018 (O&M)

Date of Decision: 5.9.2019

Inderpal Singh and another

---Appellants

versus

Kamaljit Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. G.S.Punia, Senior Advocate with
Mr. P.S.Punia, Advocate
for the appellants**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration that plaintiffs-appellants are owners and in joint possession of 7 kanals of land, detailed in head note of the plaint, by assailing agreement to sell dated 26.9.2000 purported to be executed by defendant No. 3 in favour of defendants No. 1 and 2, was dismissed by the trial court vide judgment and decree dated 24.8.2015 and the appellants-plaintiffs remained unsuccessful before the First Appellate Court.

The sole submission made by counsel for the appellants is that the courts should have allowed moulded relief by allowing recovery of sale consideration qua 7 kanals of land against defendant No. 3, vendor of the plaintiffs under sale deed No. 375 dated 28.5.2009 as he was not owner of that land in view of earlier agreement of sale dated 26.9.2000 on the basis whereof plea for specific performance was allowed vide judgment and decree dated 11.10.2006. In addition, it is argued that appellants also raised

plea of bona fide purchasers for consideration but the same has wrongly been rejected by the courts.

I have gone through the impugned judgments but find that there is no error much less perversity, in consistent findings recorded by the courts that would call for intervention in second appeal.

The agreement of sale dated 26.9.2000 by defendant No. 3 in favour of defendants No. 1 and 2 became subject matter of civil suit No. 509 dated 6.12.2003 and culminated in judgment dated 11.10.2006 on the basis whereof sale deed No. 1367 dated 6.9.2012 was executed and registered in favour of defendants No. 1 and 2 in execution proceedings. Once claim of defendants No. 1 and 2 had already been accepted by a court of law long before the sale deed propounded by the plaintiffs, the courts have rightly rejected their claim to be declared as owners and entitle to joint possession of suit land.

Perusal of the judgments would further reveal that at no stage of the proceedings, the appellants asserted their claim for allowing moulded relief of recovery of sale consideration from defendant No. 3 on payment of requisite court fee. In this view of the matter, I do not find any reason to interfere in the well founded findings recorded by the courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

5.9.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No