

RSA No.3287 of 2017 (O&M)
Date of Decision.22.05.2019

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

AMIT RAWAL J. (ORAL)

It was alleged that plaintiffs by virtue of sale deed become owners whereas entry in the mutation bearing No.5017 Ex.P8 is post sale deed whereby share had accordingly been reduced. They had come into footsteps of Princepal, father of defendants No.1 and 2 as per the sale deed, shown owners of half share in the aforementioned land.

Defendants opposed the suit and raised objection qua maintainability and supported the mutation in accordance with share.

Both the parties led extensive evidence, resulting into dismissal.

Mr. Jain, learned counsel appearing on behalf of the appellants submitted that the judgments and decrees of the Courts below are not sustainable in the eyes of law, for, mutation is post the sale deed of the appellant. As per the sale deed, he purchased 33 kanals 1 marla.

I am afraid aforementioned argument would not be sustainable, as the plaintiffs cannot be said to be bona fide purchaser strictly as per the provisions of Section 41 of the Transfer of Property Act having not been made reasonable enquiry. As the defendants were already parties in the partition proceedings, share has to be as per the revenue record. It is not the case of the appellants that his vendors were actually not owners of the share sold. If it was in excess, the sale deed would be confined to their share reflected in the revenue record. Since plaintiffs acquired status of co-owners on the basis of aforementioned sale deed, no other relief was required to be sought in view of the fact that partition proceedings had attained finality.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by 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 22, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No