

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 5137 of 2018 (O&M)

Date of Decision: 27.03.2019

Jora Singh

...Appellant

VERSUS

Chamkaur Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Narinder S. Lucky, Advocate
for the appellant.

SURINDER GUPTA, J.(Oral)

Heard. Plaintiffs filed suit for possession of suit property on the basis of title, which was contested by defendants with the plea that predecessor-in-interest of plaintiffs, namely, Karnail Singh, Bachan Singh and Beeru Singh have agreed to sell the suit property to Natha Singh vide agreement dated 28.07.1982. The sale deed was, however, not executed and after death of Natha Singh, defendants are in possession of the suit property.

2. So far as possession of defendants over the suit property is concerned, the same is not disputed as earlier they have filed suit for injunction which, learned counsel for appellant submits, was withdrawn as plaintiffs-respondents admitted their possession.

3. The sole question, which arises for consideration in this appeal, is as to how defendants/appellants can protect their possession against the right of ownership of plaintiffs-respondents? In the written statement, they have nowhere claimed that they are legal heirs of Natha Singh or their possession is protected under Section 53-A of the Transfer of Property Act.

Learned Ist Appellate Court has looked into this aspect and observed in para

18 as follows:-

“18. “.....There is no doubt that said Natha Singh or his legal heirs can protect their possession against Karnail Singh, Bachan Singh and Beeru Singh but defendants have failed to prove that same vendors were predecessor-in-interest of plaintiffs and defendants are successor of Natha Singh. As per copy of jamabandi for the year 2007-08, plaintiffs are owners of the suit property. As per copy of jamabandi for the year 1982-83, one Bhagwant Singh was owner of the suit property and this copy is Ex. P1. So how Karnail Singh, Bachan Singh and Beeru Singh executed this agreement of sale Ex. D1 when they were not recorded as owners of the suit property. There is a recital in Ex. D1 that vendors would get entered the mutation of the land of Bhagwant Singh but both the parties are silent that why this mutation was not sanctioned in favour of vendor Karnail Singh and others. As the defendants failed to prove that they are legal heirs of Natha Singh vendee and hence they are not entitled for protection of their possession under the agreement of sale dated 28.7.1982. So plaintiffs being owners of suit property are entitled to its possession.”

4. Learned counsel for the appellant has argued that a suggestion was given to appellant-Jora Singh about his relationship with Natha Singh and he has stated that he was his uncle. He, however, concedes that the

appellant has nowhere pleaded in the written statement or even in earlier suit filed by them that they are in any manner related to Natha Singh. In these circumstances, learned Ist Appellate court has rightly answered the question, which arises for consideration in this appeal as discussed in the para 3 above and I find no reason to interfere with the conclusion so arrived at by Courts below, calling for any interference in this appeal.

5. No substantial question of law requiring determination arises in this appeal, which has no merit.

Dismissed.

March 27, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No