

RSA-5504 of 2018 (O&M)

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

RSA-5504 of 2018 (O&M)
Date of decision: 18.07.2019

Gopal @ Gopal Sharma

.....Appellant

versus

Madan Kumar Jindal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sandeep Sharma, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Unsuccessful defendant has preferred this Regular Second Appeal against judgment and decree of the lower appellate Court dated 06.07.2018, dismissing his appeal with costs, thereby affirming the judgment and decree of the trial Court dated 27.02.2017, whereby suit of respondent No.1-plaintiff for recovery of ₹4,24,710/- was decreed along with interest @ 8% per annum.

Briefly, appellant was owner of 12 marlas of land (in short the 'suit land') detailed in the judgment of trial Court, situated in Village Teha, Tehsil Ganaur, District Sonipat, which he sold to respondent No.1-plaintiff for a sale consideration of ₹1,63,000/- vide registered sale deed No.2437 dated 07.02.2003. Later on suit land was acquired by the Government of Haryana for public purpose vide award No.15 dated 14.11.2008. Appellant taking advantage of revenue entries in his favour inasmuch as respondent No.1-plaintiff did not get sanction mutation in his favour, withdrew entire compensation of the acquired land, including the area sold by him to

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respondent No.1/plaintiff illegally from the State Government. On coming to know this fact, respondent No.1 requested the appellant-defendant to make payment of compensation qua his share to him, but he refused to do so.

With these broad submissions, respondent No.1-plaintiff filed a suit for recovery of ₹4,24,710/- against the appellant, which after holding full-fledged trial was decreed by the trial Court vide judgment and decree dated 27.02.2017.

Being aggrieved, approached, the first appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment and decree dated 06.07.2018.

Learned counsel for the appellant *inter alia* contends that suit land was acquired in the year 2008, whereas respondent No.1-plaintiff filed suit in the year 2015 i.e. after seven years. Therefore, both the Courts below failed to appreciate that same was liable to be dismissed being hopelessly time-barred. Both the Courts below also failed to appreciate that appellant was owner in possession of the suit land, therefore, had rightly withdrawn compensation. In support of his contentions, learned counsel placed reliance on judgment of this Court in ***Harbans Singh v. Amandeep Singh and another***, 2017(2) PLR 734.

Having given thoughtful consideration to the submissions made by learned counsel for the appellant, this Court finds the instant Regular Second Appeal completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this appeal. Therefore, same is held not maintainable.

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Appellant-defendant has not disputed sale deed Ex.P1 executed and registered by him in favour of respondent No.1-plaintiff, but has tried to put a dent in the same taking plea that it was not a genuine transaction as it was executed to secure loan taken by him from respondent No.1-plaintiff. However, appellant-defendant could not dispel genuineness, due execution and registration of the sale deed in favour of respondent No.1-plaintiff. Therefore, both the Courts below negating the above plea of the appellant have rightly held sale deed Ex.P1 to be valid and legal document.

As far as argument of learned counsel for the appellant that suit of respondent No.1-plaintiff was time-barred is concerned, same has no merit inasmuch as appellant-defendant withdrew compensation from the State Government in concealment from respondent No.1-plaintiff. Therefore, suit filed by respondent No.1-plaintiff has rightly been declared within limitation by both the Courts below.

Facts and circumstances of the above-referred authority relied upon by learned counsel for the appellant are distinguishable from the facts of present case. Therefore, no benefit of the same can be given to the appellant.

I have gone through judgments of both the Courts below and find no illegality or perversity in the same.

Dismissed with costs.

July 18, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No