

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

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RSA-2195-2012 (O&M)

Date of decision: 20.01.2020

MANESH YADAV

... Appellant

Versus

PERMANAND AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Amit Jain, Advocate for the appellant.

None for respondent No.1.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration that plaintiff and proforma defendants No.6 to 33 are full fledged and lawful owners in possession of suit land measuring 2 kanal 15 marlas situated in Village Lakhnola, Tehsil and District Gurgaon and defendants No.1 to 4 have got no right, interest or title in the same and challenge to sale deed dated 31.07.1995 in favour of defendants No.1 and 2 and mutation No.944 on the basis thereof, lease deed dated 31.07.1995 in favour of father of defendant No.1 and mutation No.940 in respect thereof and sale deed dated 08.12.1995 in favour of defendant No.3 and consequent mutation No.1145 and sale deed dated 24.02.2003 in favour of defendant No.4 and consequent mutation No.1115 being illegal, void ab-initio and liable to be set aside with consequential relief of permanent injunction and alternative relief of possession was decreed by the trial Court vide judgment and decree dated 03.09.2010 that came to be affirmed in appeal by the Additional District Judge, Gurgaon vide decree and judgment dated 07.12.2011.

The present appeal has been filed by Manesh Yadav defendant No.4 therein in whose favour sale deed dated 24.02.2003 was executed by one Anil who had purchased a part of suit land during pendency of previous litigation initiated vide Civil Suit No.571/94/2001 titled 'Parma Nand and others Vs. Om Parkash and others' decided vide judgment and decree dated 17.04.2003 Ex.P24 and Ex.P25 respectively.

The sole submission made by counsel for the appellant is that previous suit that culminated in the judgment dated 17.04.2003 was filed by Parma Nand and others claiming ownership of land including land purchased by the appellant on the premise that since the mortgager had not redeemed the mortgage within the stipulated period of limitation, they had become owner of the said land. It is argued that in view of judgment of Hon'ble Full Bench of this Court **Ram Kishan and ors. Vs. Sheo Ram and ors., 2008(1) RCR (Civil) 334** and that of Hon'ble the Supreme Court **Singh Ram (D) thr Lrs Vs. Sheo Ram and ors., 2014(9) Scale 411** the decree declaring the mortgagees to be owner of land subject matter of the suit filed in the year 1994, can no longer hold good, therefore, sale of suit property by its erstwhile owner during pendency of the previous litigation cannot be faulted nor purchasers thereof can be denied title to purchased land.

I have heard counsel for the appellant, perused the paper book particularly the judgments impugned.

Counsel for the appellant, in response to a query, would fairly inform that the decree and judgment dated 17.04.2003 passed in Civil Suit No.571/94/2001 has attained finality as the same was never challenged by erstwhile owners of land/mortgagers. Once the said judgment and decree has attained finality, the referred authorities cannot enure to benefit of appellant. As per the settled position in law, a wrong judgment and decree is equally binding upon parties unless it is set aside in appropriate proceedings.

Counsel for the appellant, in response to a query, would fairly inform that Anil Kumar purchased the land claimed by the appellant during pendency of Civil Suit No.571/94/2001 decided on 17.04.2003, therefore, sale in favour of Anil Kumar by defendants No.1 and 2 in the said suit is hit by the doctrine of lis pendens and cannot hold good as suit filed by Parma Nand etc. with regard to ownership of land including land purchased by Anil Kumar was decreed. No sooner, sale in favour of Anil Kumar does not confer a title in his favour, purchase of said land by the appellant during pendency of instant suit is of no legal consequence, in his favour. In this view of the matter, I do not find any reason to intervene in the judgments

impugned.

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

20.01.2020

(REKHA MITTAL)
JUDGE

ashok

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No