

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

RSA-4575-2019 (O&M)

Date of decision : 28.01.2020

Keshar Singh and others

...Appellants

Versus

Kulwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K. Jindal, Sr. Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Gopal Soni, Advocate for the appellants.

Ms. Harshita, Advocate for
Mr. Vineet Chaudhary, Advocate for respondent Nos.1 to 3.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed for grant of decree of declaration that the judgment and decree dated 17.01.2008 passed in Civil Suit No.109 of 1996 titled as Kulwinder Singh Vs. Raunki Ram etc, is illegal, arbitrary, against law, null and void, collusive and based on fraud.

Defendant Nos.1 to 3 had previously filed a civil suit titled as Kulwinder Singh Vs. Raunki Ram etc, challenging correctness of sale deed executed by Kirpal Singh in favour of Raunki Ram dated 20.08.1990. The suit filed by Kulwinder Singh and others, defendant Nos.1 to 3, herein, was allowed vide judgment and decree dated 17.01.2008. The plaintiffs had

purchased the property from Mewa Singh during the pendency of the previous suit vide sale deed dated 13.06.2001. Raunki Ram had transferred the property to Mewa Singh.

Both the Courts, on appreciation of evidence, have found that the sale in favour of the plaintiffs was during the pendency of the previous suit and, therefore, governed by the Rule of 'lis pendens'. Any sale or transfer of the property during the pendency of the suit becomes subservient to the result of the case. In other words, such sale or transfer is subject to the decision of the case. The Courts further found that the sale by Mewa Singh in favour of the plaintiffs was not bona fide rather a mischievous action. The Courts found that Mewa Singh was closely related to the plaintiffs. He is husband of sister of mother of the plaintiffs (*Masad* or *Mosa* in local language).

Although, learned Senior Counsel for the appellants has submitted that the plaintiffs are bona fide purchaser for valuable consideration, however, such argument is not available to the purchaser governed by the Rule of lis pendens. Still further, the sale deed in favour of the plaintiffs is by Mewa Singh, who was related to the plaintiffs.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

28.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No