

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

RSA-3380-2018 (O&M)
Date of decision : 22.01.2020

Dr. Vijay Sharma and another

...Appellants

Versus

Pushpa Mittal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parshant Sethi, Advocate for the appellants.

ANIL KSHETARPAL, J. (ORAL)

CM-8960-C-2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 28 days in filing the present appeal is condoned.

Application is allowed.

CM-8961-C-2018

Deficiency in the Court fees has already been made good, subject to all just exceptions.

Application is allowed.

Main case

Defendant Nos.4 and 5-appellants have filed the present Regular Second Appeal against the judgment and decree passed by the learned First Appellate Court.

The plaintiff-respondent No.1 had filed a suit claiming declaration with consequential relief of permanent injunction to the effect that she is owner in possession of the property on the basis of sale deed executed by Rama Kant Singhania dated 04.08.2005. It is the pleaded case of the plaintiff that Rama Kant Singhania and Vinod Bansal had jointly purchased the property vide sale deed dated 27.07.1981. Thereafter, there was partition of the property. The piece of land, which came to the share of Rama Kant Singhania, was sold through registered sale deed in favour of the plaintiff-respondent vide sale deed dated 04.08.2005. The plaintiff claims that subsequent sale deeds executed by Rama Kant Singhania does not confer any right as Rama Kant Singhania was not left with any right, title or interest in the property.

Defendant Nos.4 and 5 did not contest the suit. In fact, only official respondents contested the suit. Defendant No.2, although, put in appearance in the suit but did not choose to file reply.

Learned trial Court, even after noticing that sufficient evidence has been produced, has dismissed the suit on the ground that fraud has not been proved.

Learned First Appellate Court, on re-appreciation of evidence, has found that even if the plaintiff has failed to prove fraud, since plaintiff-respondent-Pushpa Mittal had purchased the property prior in point of time i.e. vide sale deed dated 04.08.2005, therefore, the subsequent sale deeds of the same property by Rama Kant Singhania, particularly when he was not left with any right, title or interest in the property would not confer any right on the subsequent purchasers.

Learned counsel appearing for the appellants has submitted that the sale deed by Rama Kant Singhania through GPA in favour of the plaintiff-respondent, does not confer any title as the aforesaid sale was through a power of attorney and the aforesaid power of attorney has not been produced. Hence, he submitted that no title has passed.

This Court has considered the submissions.

It is not in dispute that a registered sale deed has been executed. There is no challenge to the validity of the sale deeds by Rama Kant Singhania, the vendor. He has never questioned the aforesaid sale deed on the ground that he did not appoint defendant No.2-Ram Nath as his attorney.

Defendant Nos.4 and 5 have also not produced any evidence to prove that the alleged power of attorney is either forged or Ram Nath was never authorized to sell the property as an agent of Rama Kant Singhania.

Keeping in view the aforesaid facts, there is no ground to interfere.

Accordingly, the present Regular Second Appeal is dismissed.

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

22.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No