

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 889 of 2022 (O&M)

Date of Decision: 28.04.2022

Ram Chander (Deceased) through his LR's.

... Petitioner(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sunil Kumar Bhardwaj, Advocate
for the appellant(s).

Mr. Harsh Vardhan, Assistant Advocate General,
Haryana, for the respondents.

Anil Kshetarpal, J.

1. While assailing the concurrent findings of facts, arrived at by both the Courts below, the legal representatives of the plaintiff-Ram Chander have filed the present appeal.

2. The land in dispute has been escheated in favour of the State in the year 1948. A previous suit, filed by the plaintiff against the State of Haryana, was dismissed on 08.10.2011. The aforesaid judgment and decree was affirmed in appeal by the First Appellate Court on 29.08.2012. The appellant claimed that he is a bonafide purchaser as the entry in the revenue record was not entered in favour of the State. It would be noted here that on the litigation started by yet another person, culminated in a judgment passed by this Court in Regular Second Appeal No. 1672 of 1984, wherein it was declared that the property has already been escheated in favour of the State.

required to fulfill the requirement of Section 41 of the Transfer of Property Act, 1882 (hereinafter referred to as “the 1882 Act”). The Supreme Court in *Hardev Singh v. Gurmail Singh (Dead) by LRs (2007) 2 SCC 404*, after discussing Section 41 of the 1882 Act, has held that before someone can be declared to be a bonafide purchaser, he is required to clear the following four tests:-

- (i) the vendor should be an ostensible owner;
- (ii) the sale is for a valuable consideration;
- (iii) the owner, by express or implied consent, has projected the ostensible owner to be the real owner;
- (iv) the transferee has taken a reasonable care to ascertain the title of his vendor.

4. In the present case, the property vests with the State. There is no allegation that the State of Haryana ever expressly or impliedly admitted the vendor of the appellant to be the owner.

5. In view of the above, no ground is made out to interfere. Hence, the present appeal is dismissed.

6. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 28, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No