

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

113

RSA-416-2021 (O&M)

Date of decision: 18.07.2022

Sohan Singh and others

.....Appellants

Versus

The Dialpura Bhaika Agricultural Cooperative Service Society Limited
and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Deepanshu Mehta, Advocate for the appellants.

MANJARI NEHRU KAUL, J. (ORAL)

The suit for possession of land measuring 21 kanals 4 marlas comprising khewat No.553/536, khatauni No.733, khasra No.230//6/2(5-4), 13/2(2-16), 14/1, (4-0), 14/2 (4-0), 15/1 (5-4) as per jamabandi for the year 2011-12, situated in the area of village Dialpura Bhaika, Tehsil Phul, District Bathinda (hereinafter referred to as 'the suit property'), filed by the plaintiff was decreed by the trial Court vide judgment dated 06.09.2019. The appeal preferred against the said decree by the appellants/defendants failed and was dismissed by the appellate Court vide order dated 15.02.2021. The appellants/defendants are now before this Court by way of Regular Second Appeal.

Parties to the *lis* hereinafter shall be referred to by their original positions in the suit.

The plaintiff filed the suit in question seeking possession of the suit property on the allegations that the defendants had no concern with it since the suit property was owned by the plaintiff society. It was pleaded by the plaintiff that defendant No.1 and his mother Mohinder Kaur (since deceased) had earlier filed Civil Suit No.560 on 12.12.1985 for declaring them as owner on the basis of

adverse possession, however, the suit was dismissed on 25.11.1986. Thereafter, defendant No.1 and his mother challenged its dismissal before the appellate Court which reversed the findings recorded by the learned trial Court. The plaintiff society then preferred RSA No.694 of 1988 before this Court which was accepted and the judgment of the appellate Court set aside. The plaintiff society claimed that after the decision rendered in RSA No.694 of 1988 they were owners of the suit property and the defendants had no right over the same. In their written statement defendants No.2 to 4 disputed the ownership of the plaintiff society over the suit property. It was contended that they had purchased the suit property from one Amarjit Kaur vide sale deed dated 02.05.2005 and hence they were bonafide purchasers of the same. It may be noticed that the defence of defendant No.1 (Jassa Singh @ Jasvir Singh) was struck off vide order dated 24.11.2017 by the trial Court.

On the basis of pleadings and other evidence led by the parties, the trial Court decreed the suit of the plaintiff with costs and directed the defendants to hand over the vacant possession of the suit land to the plaintiff within one month from passing of the judgment. The lower appellate Court upheld the findings recorded by the trial Court and dismissed the appeal preferred by defendants No.2 to 4. Hence, the instant appeal.

Learned counsel for the appellants/defendants No.2 to 4 has reiterated the submissions made before the Courts below in their written statement and the stand taken by them therein. It has been submitted that both the Courts below failed to appreciate that they were

bonafide purchasers of the suit property which was purchased by them from Amarjit Kaur vide sale deed dated 02.05.2005. The jamabandi for the year 1981-82 reflected the possession of Jassa Singh @ Jasvir Singh and Mohinder Kaur was also on the basis of the same. It was urged that the findings recorded by the Courts below that the purchase made by them was hit by doctrine of *lis pendens* was not sustainable as they after inspecting the revenue records had satisfied themselves qua the status of ownership of the suit property as both Jassa Singh and Mohinder Kaur were shown to be owners. Hence, they were not expected to enquire any further qua the ownership of the suit property and moreso when they were not even a party to any previous litigation concerning the suit property.

I have heard learned counsel and perused the material on record.

It would be relevant to notice that as per the jamabandis for the year 1981-82 (Ex.P-10) and for the year 1986-87 (Ex.P-11) the ownership of the plaintiff society over the suit property clearly stands depicted wherein Jassa Singh and Mohinder Kaur have been shown as tenants in possession (gair marusi). It was urged by the learned counsel that the possession of Jassa Singh and Mohinder Kaur was shown therein as owners, and not as tenants and in support, a great deal of stress was laid on an entry in column No.9 of the jamabandis for the years 1981-82 and 1986-87. However, it is also a matter of record that a civil suit filed by Jassa Singh and Mohinder Kaur for declaring them owner by way of adverse possession was dismissed and the judgment and decree of the trial Court dated 25.11.1986 was upheld by this Court

in RSA No.694 of 1988 vide order dated 16.07.2014. Still further, it is the admitted case of the defendants themselves that they purchased the suit land from Jassa Singh and Mohinder Kaur during the pendency of the litigation between the plaintiff and them in respect of the suit property.

Therefore, the purchase so made by defendants No.2 to 4 would be hit by the doctrine of *lis pendens*. It cannot be over-emphasized that the doctrine of *lis pendens* cannot be frustrated by a plea of bonafide purchase. When a property is the subject matter of dispute between two parties in a suit, any transfer made by a party to the detriment of the other *pendente lite* would be subject to the outcome of such litigation. The decision of a Court in such case would be binding not only upon the litigating parties but also on those who would have derived the title from the parties *pendente lite*.

In the circumstances, the plea of being bonafide purchasers would be of no avail to defendants No.2 to 4. This Court does not find any error in the concurrent findings recorded by both the Courts below.

Upon being pointedly asked, learned counsel for the appellants/defendants failed to refer to anything on record to show that the conclusions arrived at by the Courts below were either contrary to the record or suffered from any material illegality. The appeal, being devoid of merit, is accordingly dismissed. The judgments and decrees of the Courts below are affirmed.

Dismissed.

18.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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