

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 2293 of 2015 (O&M)

Sukhdev Singh and others

....Petitioners

VS

Financial Commissioner and others

....Respondents

CWP No. 2315 of 2015 (O&M)

Sukhdev Singh and others

....Petitioners

VS

Financial Commissioner and others

....Respondents

CWP No. 4003 of 2015 (O&M)

Sukhdev Singh and others

....Petitioners

VS

Financial Commissioner and others

....Respondents

Date of Decision: 09.03.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Kabir Sarin, Advocate with
Mr. R.D. Gupta, Advocate
for the petitioners

Mr. Arun Kaundal, DAG Punjab

Mr. Keshav Gupta, Advocate
for respondents No. 2 and 3

SUDHIR MITTAL, J. (Oral)

This judgment will dispose of Civil Writ Petitions No. 2293, 2315 and 4003 of 2015 as the facts involved therein are identical and the orders impugned are also the same.

Harjinder Kaur executed three separate registered sale deeds in favour of the petitioners on 18.08.2006 in respect of three separate parcels of land. Based thereupon, the petitioners applied for entry of mutation and mutation dated 31.08.2006 was entered. This was challenged by respondents No. 2 and 3 by way of appeal and the appeal was allowed vide order dated 30.01.2007 on the ground that the sale had been executed in violation of an order of status quo dated 06.08.2003 passed by the civil Court in a suit for declaration filed by the brothers-in-law of the vendor that property subject matter thereof was joint hindu family property. Revision preferred by the petitioners was dismissed vide order dated 17.09.2008 and second revision was dismissed vide order dated 13.08.2013. The petitioners sought review of the order dated 13.08.2013 on the basis of an order dated 09.12.2011 passed by the civil Court whereby the civil suit referred to earlier had been dismissed under Order 9 Rule 8 of the Code of Civil Procedure. However, the review was rejected vide order dated 19.08.2014 and, thus, the present writ petitions have been filed.

Learned counsel for the petitioners has argued that stay order granted by a Court does not deprive the vendor of his title. Thus, the registered sale deed executed by the vendor conveys valid title unless and until it is found that the said vendor's title was defective. No such fact/evidence is on record. Even the stay order dated 06.08.2003 has ceased to exist with the dismissal of the civil suit on 09.12.2011 and, thus, the Financial Commissioner was in error in refusing to review his order.

Learned counsel for respondents No. 2 and 3 submits that sale deed executed in violation of a stay order could not have been acknowledged by the State. He relies upon *Ghanshyam Sarda vs. Sashikant Jha, Director, M/s JK Jute Mills Co. Ltd. and others, 2017(1) RCR(Civil) 1*.

justified in submitting that the title of executant of a party to a registered sale deed does not come under cloud by virtue of a stay order. An order of stay only debars a party from doing a certain act and no more. If an action is taken in violation of the stay order it would make the violator amenable to initiation of proceedings under the Contempt of Courts Act. Reliance upon judgment in ***Ghanshyam Sarda (supra)*** is misplaced as all that has been held in the said judgment is that in actions initiated for contempt of Court, the illegality committed by violating the order of the Court can be reversed. This judgment is not attracted in the facts and circumstances of this case as no proceedings for contempt have been initiated.

Order dated 09.12.2011 was brought to the notice of the Financial Commissioner as soon as it came to the knowledge of the petitioners. The petitioners were not parties to the civil suit and, thus, the observations in order dated 19.08.2014 that the said order should have been brought to the notice of the Court at the time of arguing the case are erroneous. From the facts it is apparent that there was no lack of diligence and review should have been allowed in view of the knowledge of relevant facts acquired by the petitioners after the decision of the revision petition.

In view of the above, the writ petitions are allowed and the orders impugned therein are quashed. Order dated 31.08.2006 passed by the Assistant Collector 1st Grade is restored.

A photocopy of this order be placed on the files of other connected cases.

09.03.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No