

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

1.RSA-449-2020 (O&M)

Gurinder Kaur and others

....Appellants

Versus

Hardial Singh (since deceased) through L.Rs and others

..Respondents

2.RSA-5637-2019 (O&M)

Gurinder Kaur and others

....Appellants

Versus

Amrik Singh and others

..Respondents

Date of decision: 21.03.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms.Raina Sabherwal, Advocate for the appellants

ANIL KSHETARPAL, J (Oral)

By this order, two connected Regular Second Appeals i.e
RSA-449-2020 and RSA-5637-2019 shall stand disposed of.

In RSA-449-2020, the defendants have questioned the
concurrent findings of fact arrived at by the courts below while
decreeing the suit filed under Section 92 of the Code of Civil Procedure,
1908, for appointment of new trustees and settling the scheme for
administration of the affairs of the Thakur Dwara.

Some facts are required to be noticed.

At one point of time, Mathura Dass was managing the
affairs of the Thakur Dwara, which is a religious property. He executed

certain sale deeds, which were challenged by the worshippers. The aforesaid suit was decreed and the property was declared to be belonging to the religious organization. However, despite the declaration, the mutation of the property was entered in the favour of Sh. Devki Dass. His legal representatives taking benefit of the revenue record, transferred the property.

The defendants contested the suit by claiming that the property does not belong to Thakur Dwara. Both the courts, on appreciation of evidence, have found that Sh.Devdutt and Sh. Manohar Dass were brought on record as legal representatives of Sh.Devki Dass only for the purpose of prosecuting the said litigation. There was a declaration that the property belonged to the religious institution. Hence, the trial court nominated the Tehsildar of the area as the Chairman whereas four Sarpanches and four Nambardars of the nearby villages were nominated as trustees.

Learned counsel representing the appellants contends that the appellants purchased the property on the basis of revenue record and therefore, they are bona fide purchasers. She further contends that the suit filed by the plaintiff is barred by limitation.

It is well settled that no-one can pass a better title than which he himself had. In the previous litigation, it has been found that the property in question belongs to a religious institution. In the considered view of the court, Section 41 of the Transfer of Property Act, 1882 will not be applicable because there is no representation by the religious institution that Sh.Dev Dutt and Sh.Manohar Dass are the

owners of the said property.

As regards the next argument, it may be noted that the maintainability of the suit is not contested on the question of limitation. There is no issue framed on the question of limitation. Furthermore, the limitation begins to run from the date the cause of action arises. In the present case, the suit property belongs to the religious institution. The plaintiffs, while filing the suit, have pleaded a cause of action. In such circumstances, no ground to interfere is made out.

Hence, dismissed.

In RSA-5637-2019, the defendants have filed a Regular Second Appeal challenging the concurrent findings of fact arrived at by the courts below. The sale deed executed in favour of the appellants by a person who had no right, title or interest in the property does not confer any right, title or interest in the immovable property in their favour. Hence, correctly declined to be not binding on the rights of the religious institution. In fact, this appeal is connected with RSA-449-2020. In view of the aforesaid reasons stated in RSA-449-2020, the present appeal is also dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

21.03.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE