

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

**(201)**

**RSA-1493-1989**

**Date of Decision : February 13, 2023**

**Chander Bhan and others**

**.. Appellants**

**Versus**

**Hameeda and another**

**.. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Chetan Slathia, Advocate, for the appellants.

**HARSIMRAN SINGH SETHI J. (ORAL)**

Present Regular Second Appeal has been filed challenging the judgment and decree dated 06.02.1989 passed by the trial Court by which, the suit filed by the respondents-plaintiffs seeking permanent injunction restraining the appellants-defendants from interfering in the possession was allowed as well as the judgment of the lower Appellate Court dated 26.04.1989 by which the appeal was dismissed.

Learned counsel for the appellants-defendants argues that the orders passed by the Courts below are perverse as the revenue record clearly showed their possession over the land in question, which fact has been overlooked by both the Courts below so as to hold that the respondents-plaintiffs were in possession after purchasing the land in question vide sale deed dated 06.05.1986. Hence, the judgment of the Courts below are liable to be set aside and the suit filed by the respondents-plaintiff is liable to be

dismissed.

I have heard learned counsel for the appellants and have gone through the record with his able assistance.

Both the Courts below have recorded the finding that the respondents-plaintiffs had purchased the land in question from Smt. Halima vide sale deed dated 06.05.1986. It was well within the knowledge of the appellants-defendants, who were also resident of the same village, that the property was sold to the respondents-plaintiffs by the owner of the land Smt. Halima and the only objection which was being raised by the appellants-defendants was that the said sale deed was bad.

Learned counsel for the appellants has not been able to dislodge the findings recorded by the Courts below that Smt. Halima was the owner of the suit property and concededly, by the sale deed dated 06.05.1986, the land in question was purchased by the respondents-plaintiffs from the owner Smt. Halima and since the date of purchase, they were in possession of the land in question.

That being so, it is clear that the respondents-plaintiffs were owner of the land in question. The possession is being disputed by the learned counsel for the appellants on the ground that after the sale deed dated 06.05.1986, the appellants approached the revenue authorities for the change of revenue record and the claim of possession is being made only on the basis of the order passed by the Assistant Collector Grade II dated 12.01.1987 which is after the sale deed in favour of the respondents-plaintiffs by the owner of the land in question and that too without any evidence that appellants were in possession of the property in question. Bald plea, without the support of the evidence has rightly been rejected by the

Courts below. It has further been held by the Courts below that though, an ex parte order was passed by the Collector Grade II against the original owner Smt. Halima but the respondents-plaintiffs, who were the subsequent owner, were never made party to the said proceedings and further, a finding has been recorded by the Courts below that in the absence of the respondents-plaintiffs being party to the revenue proceedings, being the owner of the land in question on the date of the passing of the said order by the Collector Grade II, the same cannot be treated against them. No argument has been advanced to dislodge the said finding of the Court below.

Keeping in view the said findings, which have been based upon the evidence, which has come on record and no perversity in those findings has been pointed out, no ground is made out for any interference by this Court in the present Regular Second Appeal.

Dismissed.

**February 13, 2023**

*harsha*

**(HARSIMRAN SINGH SETHI)**

**JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No