

2023:PHHC:162830

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

218

RSA-1379-1994 (O&M)
Date of decision: 19.12.2023

Paras Ram

....Appellant

Versus

Bharto Devi Deceased through LRs and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sapan Dhir, Advocate for the appellant

Mr. Ritesh Aggarwal, Advocate for
Mr. Nitin Sarin, Advocate for respondent Nos.1 to 3

AMAN CHAUDHARY. J.

1. Challenge in the present regular second appeal is to the concurrent findings of fact returned by the Courts below in favour of the plaintiff-respondents in a suit filed for possession.
2. Learned counsel appearing for respondent Nos.1 to 3 has filed an affidavit of Jagdish Chand Sharma s/o Kedarnath, resident of House No.5530/3, Near Railway Phatak, Modern Housing Complex, Manimajra, Chandigarh, who is one of the LR of plaintiff-respondent Bharto Devi to submit that the in view of the fact mentioned therein, the property in dispute had already been sold by the plaintiff-respondent to the defendant-appellant in the year around 2004 and thus, the present regular second appeal has been rendered infructuous.
3. Learned counsel appears for the appellant and submits that he has no instructions in this regard. However, in case of disposing of the appeal in view of the affidavit, he prays liberty to revive the present appeal be granted.
4. Heard.

5. The affidavit produced in Court today reads thus:

“I, the above-named deponent, do hereby solemnly affirm and state as under:

1. That the above mentioned appeal is listed before this Hon'ble Court for 19.12.2023.
2. That the plaintiff/respondent had filed a suit for possession of Booth No. 22, Sector-27C, Chandigarh against the present appellant in the year 1975. The Ld. Trial Court had decreed the suit filed by the plaintiff/respondent vide judgment and decree dated 30.11.1978.
3. That the appellant feeling aggrieved by the judgment and decree dated 30.11.1978, challenged the same before the Ld. Additional District Judge, Chandigarh in Civil Appeal No. 346 of 1979 which was dismissed vide judgment and decree dated 05.05.1994.
4. That the appellant thereafter challenged the concurrent findings before this Hon'ble Court in the above noted Regular Second Appeal (RSA).
5. That on 27.05.1994, this Hon'ble Court had issued notice of motion in the above mentioned RSA along with stay on the execution of the judgment and decree of the lower Court. Thereafter, the above mentioned RSA was admitted vide order dated 20.07.1994 with a direction that the interim order passed on 27.05.1994 shall continue.
6. That during the pendency of the above mentioned RSA, the plaintiff/respondent had sold the property in dispute i.e. Booth No. 22, Sector-27C, Chandigarh to the appellant in the year around 2004. Therefore, nothing survives in the present RSA and thereafter, I do not have any concern with the property in dispute.”

6. In view of the above, the present regular second appeal is disposed of as having been rendered infructuous. However, liberty is granted to the appellant to revive the appeal, if need arises.

(AMAN CHAUDHARY)
JUDGE

19.12.2023
M.Kamra

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