IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA-2506-2023 (O&M)
Decided on : 31.07.2023

State Bank of Patiala (now State Bank of India)
. . . Appellant(s)

Versus

Smt. Santosh
. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Chandeep Singh, Advocate
for the appellant(s).

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SANJAY VASHISTH, J. (Oral)

1. Appellant – State Bank of Patiala (SBOP) [now State Bank of India (SBI)] by way of present Regular Second Appeal (RSA), has challenged the judgments & decrees passed by the learned Courts below, whereby, concurrent findings purely on fact, has been recorded while decreeing the suit for recovery of Rs.5,00,000/- (Rs. Five Lacs only).

2. A short dispute raised by the plaintiff (respondent herein) before the Trial Court is that being a successful bidder, she purchased a built-up house of the area of 132 sq. yards from the defendant – Bank (appellant herein) for a sum of Rs.24,10,000/-. After taking possession of the said house, plaintiff came to know that the actual area of the said built-up house is 107 sq. yards, instead of 132 sq. yards.

Therefore, suit for recovery of the excess amount received by the defendant – Bank, was instituted by the purchaser – plaintiff. During the pendency of the suit, for appointment of Local Commissioner, an application was moved. Accordingly, Sub-Divisional Engineer (B&R), Jind, visited the disputed site on 07.10.2017 along with Sh. Ravinder Kumar, J.E., and

Mahabir, Supervisor, from the office of B&R, Jind, and submitted his report (Ex.P11). As per said report, it was found that the total area is = 977.74 sq. feet or 108.64 sq. yards. Thus, the area is found to be short, which in fact, was sold to the plaintiff by giving an impression of the total area of 132 sq. yards.

3. In fact, defendant – Bank relied upon the report of its valuer, Sh. Rajesh Goel, after whose submission of report, proceedings of selling out of the property were published for general public. By recording a finding of fact, the Trial Court reached to the firm conclusion that consideration for the excess area, and the stamp duty charged over that requires to be refunded to the plaintiff along with interest, and therefore, plaintiff is held entitled to receive an amount of Rs.4,47,807/- along with interest @ 8% w.e.f. 18.02.2016 , when sale-deed No.7747 was registered and possession was handed-over to the plaintiff.

Finding of the Trial Court has been upheld by the learned First Appellate Court also.

4. Both the Courts below have also taken note of the fact that as per the stand of the Bank itself, complete surrounding area, sold out to the plaintiff was already built-up. Thus, it also cannot be assumed that the suit has been filed after making encroachment by the persons of the nearby area. It is also noticeable that the present suit was instituted by the plaintiff on 05.08.2016 i.e. within a period of six months i.e. less than six months of period of sale of the property in open auction to the plaintiff.

5. This Court does not find any substantial reason to disbelieve the findings of fact given by the Courts below, and it is also not the case of the plaintiff that the report of the Local Commissioner is not correct, as no such

objection against the report of Local Commissioner was ever filed by the defendant – Bank at relevant stage, as nothing such has been pointed out by the counsel during the course of arguments before this Court.

Therefore, the impugned judgment & decree passed by the Courts below are maintained/upheld. Besides, no question of law, much less, any substantial question of law arises for consideration in the present appeal for interference in the impugned judgments & decrees passed by the Courts below.

Thus, finding no merit in the present appeal, same stands **dismissed**.

Since, the appeal has been dealt with on merits, therefore, application for seeking condonation of delay of 40 days in filing the present appeal, also stands disposed of.

6. The appellant – Bank, is a nationalized Bank dealing with the public money, therefore, it would be open for the appellant – Bank to proceed for recovery of the amount from the concerned person in accordance with law, who is/was responsible for preparing a wrong report in respect of the sold out area of the plot, sold out to the plaintiff.

(SANJAY VASHISTH)
JUDGE

July 31, 2023
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No