

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

142

MEENU PAHUJA & ORS.
1. RSA-2030-2022(O&M)
Date of decision: 31.08.2023
..Appellants

Versus

MORGAN SIGNATURE TOWERS PVT. LTD.
..Respondent

SUKHDEV SINGH
2. RSA-2685-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD. & ANR.
..Respondents

BABITA RANI @ BABITA BHATIA
3. RSA-2686-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD. & ANR.
..Respondents

SMT. SAROJ PAHWA
4. RSA-2688-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD.
..Respondent

SMT. ROZY PUNJANI
5. RSA-2689-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD.
..Respondent

JEET SINGH
6. RSA-2691-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD.
..Respondent

MEENU PAHUJA
7. RSA-587-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD.
..Respondent

RAJ BALA
8. RSA-588-2023(O&M)
..Appellant

Versus

MORGAN SIGNATURE TOWERS PVT. LTD. & ANR.
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Bhupinder Ghai, Advocate
 for the appellant (in RSA-2030-2022, RSA-587 & 588-2023)

 Mr. Karanjeet Singh Brar, Advocate
 for the appellant (in RSA-2685, 2686, 2688, 2689, 2691-2023).

 Mr. Sandeep Jain, Advocate
 & Mr. Tarun Singla, Advocate
 for caveator/respondent.

ANIL KSHETARPAL, J(Oral)

1. A batch of 8 connected regular second appeals has come up for final disposal.
2. The learned counsel representing the parties (in RSA-2030-2022) admit that appellant No.7, 8, 9, 10, 11 and 14 have already settled

their dispute with the respondent and, therefore, the appeal qua them be dismissed as infructuous.

3. Ordered accordingly.

4. In all these appeals, the correctness of the findings of fact arrived at by the First Appellate Court is being questioned by the defendants.

5. A collective suit was filed by as many as 17 plaintiffs for grant of declaration and for setting aside the transfer and cancellation of deed executed in favour of defendant No.1 with a consequential relief of permanent injunction and mandatory injunction.

6. On the other hand, Morgan Signature Towers Pvt. Ltd. (hereinafter referred to as the 'MST') and others filed as many as 27 suits for grant of decree of possession.

7. In order to comprehend the controversy involved in the present appeals, the relevant facts, in brief, are required to be noticed.

8. Originally, Industrial Plot No.1 and 2 was allotted to Gedore Tools India Pvt. Ltd. Subsequently, the name of the company was changed to Jhalani Tools India Ltd. The entire land comprised in plot No.1 and 2 was mortgaged with ICICI and SICOM in the year 1978. The Jhalani Tools India Ltd. was in financial difficulty. The proceedings for winding up of the company was filed on 11.12.1998. On 16.12.1998, the Company Judge , Delhi High Court restrained the company from alienating the property in any manner. The defendants in the suit filed by the MST purchased the property after the restrained order passed by the Company Judge and that also without seeking permission. The sale deeds have been executed by the company, which was under liquidation, through some general power of attorney

holders of the individual directors of company, which was in liquidation. It is the case of the MST that these power of attorney were given by Director of the company at individual level and there was no authorization by the company. The First Appellate Court has found that the sale deeds executed after the restraint order are in violation of Section 531-A, 536(2) and 537(1) of the Companies Act, 1956. The learned counsel representing the appellants (purchasers) do not dispute this fact. The MST has purchased the property from the official liquidator appointed by the Company Judge. The Official Liquidator after seeking permission from the Company Judge sold the property in favour of the MST. The sale in favour of the MST was confirmed by the Company Judge. Thereafter, the Official Liquidator issued notices to the occupants in order to hand over the possession to the MST. At that stage, the Company Court passed an order that the sale of the property was made on “as it is where it is basis” and therefore the auction purchaser has a right to avail the alternative remedy. That is how the suit was filed.

9. On the other hand, 17 plaintiffs filed suit claiming to be bonafide purchasers. The trial Court decreed the suit filed by 17 purchasers on the ground that the rights can only be decided in objections before the Executing Court. The First Appellate Court has found that before the Company Judge, the matter came to an end, once the MST were relegated to the alternative remedy, therefore, the suits are maintainable.

10. From the reading of para 3 of the judgment passed by the trial Court, it is evident that the sale deeds in favour of various plaintiffs are after 16.12.1998. After 16.12.1998, the company in liquidation had no authority to transfer its assets.

11. Keeping in view the aforesaid facts, there is no ground to interfere that the detailed judgment and decree passed by the First Appellate Court, hence, all the connected appeals are dismissed.

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

August 31st, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

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