

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

RSA-3460-2018 (O&M)
Reserved on: 15.11.2023
Date of decision: 30.11.2023

SURESH KUMARI

..Appellant

Versus

MAYA CHAND AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dalip Kumar Tuteja, Advocate
for the appellant.

ANIL KSHETARPAL, J.

CM-9170 & 9169-C-2018

1. For the reasons stated in the applications for condonation of delay which are supported by an affidavit, the application are allowed.
2. The delay of 29 days and 110 days in filing and refiling the appeal, respectively, is condoned.
3. CMs stand disposed of.

Main case

4. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the Courts below is assailed by the defendant No.2 in the suit. The plaintiffs' suit for specific performance of the agreement to sell and declaration with consequential relief of permanent injunction has been decreed by both the Courts below. The appellant before this Court claims to be a bonafide purchaser of the property. It has been found that the defendant No.1 executed an agreement to sell on 27.09.1997 on receipt of Rs.75,000/- out of total sale consideration of Rs.1,00,000/- in

favour of the plaintiffs. Defendant No.1 was allotted the land by the government and he was in the process of getting the sale deed registered. As per the agreement to sell, the sale deed was to be registered within a period of one month from the date of allotment. Finally, the allotment in favour of defendant No.1 was made on 30.10.2008, whereas, the plaintiff filed the suit on 02.01.2009. In between, the plaintiff Sh. Maya Chand also filed a suit for grant of decree of permanent injunction apprehending that the property would be alienated, however, defendant No.1 executed the sale deed in favour of defendant No.2 on 20.11.2008.

5. Defendant No.1 while contesting the suit denied the execution of the agreement to sell. Defendant No.2 claimed that she is a bonafide purchaser and defendant No.1 was not competent to enter into agreement to sell.

6. Both the Courts while observing that on every step, defendant No.1 has taken a different stand, decreed the suit. To prove the agreement to sell, Sh. Ved Singh, witness as well as its scribe Sh. Bilas Chand were examined. Both the Courts also found that defendant No.2 (appellant) is not a bonafide purchaser because she purchased the property from Sh. Balbir (defendant No.1) on 20.11.2008 i.e. within a period of 20 days the property was allotted to Sh. Balbir. The Courts also found that the deposition of Smt. Suresh Kumari does not inspire confidence.

7. It was found that although she claims that she has paid the amount of Rs.11,00,000/-, which was lying at her home and the amount of Rs.10,00,000/- was given at the time of registration, however, she failed to

disclose the details of the transaction. She also failed disclose the properties located adjacent to the suit land.

8. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

9. The learned counsel representing the appellant contends that she is a bonafide purchaser for valuable consideration therefore, the judgment and decree passed by the Courts below are wrong.

10. This Court has considered the submissions of the learned counsel representing the appellant.

11. On appreciation of evidence, both the Courts have concurrently found that the appellant is not a bonafide purchaser after taking note of various circumstances, which prove that the appellant is not a bonafide purchaser. This Court in absence of manifest error or perversity should not interfere in the concurrent judgments of the Courts below. The learned counsel representing the appellant did not press any other issue.

12. Hence, no ground to interfere with the concurrent findings of fact is made out.

13. Dismissed accordingly.

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

November 30th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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