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

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Decided on : 20.10.2023

Raj Kumar and others

... Appellant(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Saurabh Dalal, Advocate
for the appellant(s).

Mr. Yuvraj Shandilya, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Present Regular Second Appeal (RSA) has been filed by plaintiffs (appellants herein) against the concurrent findings of dismissal of suit filed by them.

2. Suit for declaration and injunction was filed by the plaintiffs (appellants), by submitting that they have purchased the agricultural land measuring 51 Kanals - 7 Marlas from one Ram Mehar s/o Ram Sarup, for a sale consideration of Rs.1,17,000/- on 28.12.1988, vide registered sale-deed dated 20.12.1988. Said Ram Mehar was co-sharer in Khewat No.136, 137, 143, 140, 141, 142, 144, 133 and Mutation No.4323, was sanctioned in favour of plaintiffs on 19.01.1998. In the plaint, it is averred that instead of sanctioning of mutation in respect of 51 Kanals – 17 Marlas of land, mutation was sanctioned *qua* only 48 Kanals – 5 Marlas, thus, 3 Kanals – 2 Marlas of land in Rect. No.126, Killa No.12/1 and 12/2, was not made part of the sanctioning of the mutation.

It is further averred in the plaint that plaintiffs purchased 16

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Kanals of land from defendant No.3, and his brother Zile Singh, vide registered sale-deed dated 06.02.1992. While sanctioning the mutation No.4321, dated 19.01.1998, defendant No.2 entered only 17 Kanals – 16 Marlas of land, instead of total 16 Kanals.

It is further averred in the plaint that defendant No.3, along with his brother Zile Singh, sold out 9 Kanals – 9 Marlas of land to Suresh Kumar vide registered sale-deed dated 17.05.2002. In this connection, mutation No.4853, was sanctioned on 01.12.2008 of only 5 Kanals – 4 Marlas of land instead of 9 Kanals – 9 Marlas of land.

Thus, plaintiffs (appellants) pleaded that out of total land measuring 77 Kanals – 6 Marlas of land, which they purchased, an error to the extent of 15 Kanals – 11 Marlas of land, has been caused by defendants No.1 & 2, by not sanctioning the mutation in regard to the said part of land.

3. Taking note of the evidence available on record, learned Trial Court dealt with the same in paragraph No.15 of its judgment, and held that in fact, plaintiffs have completely failed in producing any evidence that the vendors, from whom they purchased the land in three parts, were also owners of the complete land, which has been projected in the sale-deeds. There is no evidence in regard to the ownership of the land of the vendors or the plaintiffs, *qua* the complete land of 77 Kanals – 6 Marlas. Therefore, learned Trial Court has held that the mutations have been rightly sanctioned *qua* the part of the land, which was previously owned by the vendors/plaintiffs.

Finding recorded by learned Trial Court in paragraph No.15 of its judgment, says as under:-

“15. *In the present suit, since plaintiff has prayed for a decree of declaration of ownership, thus it was incumbent*

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upon the plaintiffs to prove not just the title deeds vide which they have purchased the land measuring 77 kanal 6 Marla in total, but also that the vendors of the plaintiffs had a title to the extent of 77 Kanal 6 Marla. In order to discharge the above onus, plaintiff has duly proved the documents Ex. P1 to Ex. P3 which are sale deeds vide which the plaintiffs have purchased a total of 77 Kanal 6 Marla of land. But the plaintiff has not brought any evidence, howsoever minuscule, to prove that the vendors of the plaintiffs were actually owners of 77 kanal 6 Marla of land. It is a settled principle of law and has been held in a catena of cases including Fakira versus Mittul Mongia and others 2014 (4) ICC 98 (P&H), Lajpat Rai versus Vidyawati 1997 (4) RCR (civil 139 (P&H), State of Madhya Pradesh versus Nomi Singh and another 2015 (4) RCR (civil) 594 (SC) that plaintiff has to stand on his own legs. Plaintiff has to prove his case by leading cogent and convincing evidence admissible in law to succeed in his claim. He cannot take advantage of the weakness of the defendant. It does not matter that the defendant has brought any evidence or not. The plaintiff has not brought any evidence to establish his case. Rather, vide document Ex. P10 which is mutation no. 4852 on the basis of which Ex. P11 was entered clearly reveals that all the land standing in the name of vendors of plaintiffs that is Balwan Singh and Zile Singh, etc have been exactly mutated in the name of present plaintiffs. More so, the mutation no. 4852 and 4853 are of same date that is 19.10.2008/24.10.2008. Thus, the plaintiff has received the

same title over the property which was standing in the name of his vendors. Since the date of both the above mutationst are same, it is clear that plaintiffs had knowledge of previous mutation, hence, the plaintiff is entitled to receive the title which his vendors had and nothing extra as it is a settled principle of law that vendor cannot pass a better title than he himself has in the property of vendee. Such a law has been reiterated in Lajpat Rai versus Vidyawati (supra). Since, the plaintiff has stepped into the shoes of their vendors. It was for the plaintiff to establish that their vendor had title over 77 Kanal 6 Marla of land. It is not material as to of how much land sale deed is executed, but it is material as to how much land stood in the name of their vendor. It was for plaintiffs to verify as to how much land stood in the name of his vendor and now the plaintiff cannot get their name incorporated in the revenue record in excess of the land, which stood in the name of their vendors despite notice of the fact that sale deed of excess land was got executed.

Thus, the plaintiff has vehemently failed to prove these issues with these observations, these issues are decided against the plaintiff and in favour of defendants.”

4. Said part of observation was kept intact by the learned First Appellate Court also, because, plaintiffs failed in making reference of any illegality or perversity in the findings recorded by learned Trial Court.

Same is the situation before this Court also, while the plaintiffs are making submissions in second appeal.

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5. I have heard learned Senior counsel for the appellants (plaintiffs) and also gone through relevant record of the case.

6. Taking into consideration the findings recorded by the learned Courts below, I am of the considered view that there is no substance with this Court to cause interference for the purpose of taking a different view to the judgments passed by the learned Courts below.

Even, no question of law, much less, any substantial question of law arises for consideration in the present appeal for interference in the impugned judgments & decree passed by the Courts below.

Thus, the instant appeal being devoid of merits, stands **dismissed**. The judgment(s) & decree passed by both the Courts below are hereby affirmed.

(SANJAY VASHISTH)
JUDGE

October 20, 2023

J.Ram

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