

Sr. No.115

Date of Decision : April 08, 2024

.... Appellants

VS.

.... Respondents

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3. The brief facts, necessary for proper adjudication of the present appeal, are that the plaintiffs filed a suit for declaration along with

consequential relief of permanent injunction, wherein it was contended that in the years 1988, 1992 and 1995, they purchased land from defendants vide four different sale deeds. They had purchased the shares of defendants in different khewats and possession was also delivered at the time of execution of sale deeds. Thereafter, though mutation with regard to all the sale deeds was entered but the entries in *jamabandis* could not be incorporated due to bad intention of defendants, in connivance with the revenue officials. So, the plaintiffs filed suit for declaration for making entries in the *jamabandis* on the basis of registered sale deeds.

4. Bhane, Ramehar (appellants in the present appeal) and Parkash contested the suit by filing written statement but other defendants were proceeded against ex-parte. The said suit was decreed by learned Trial Court holding therein that the sale deed in question had been duly proved by the plaintiffs and further, no legal course was adopted by the defendants to restore their ownership, if any.

5. Feeling aggrieved by the said judgment and decree, an appeal was preferred by the defendants no.6 and 7 along with defendant Parkash, submitting therein that the evidence brought on record by them has not been taken into consideration but the said appeal was dismissed by the learned First Appellate Court, observing that on perusal of written statement filed by them reveals that there was only evasive denial from the side of the defendants. In such a situation, even a vague and evasive denial of a fact can be treated as admission and the Court has every right to pass decree in favour of plaintiffs. Moreover, a facts which had been admitted need not be proved by any other evidence.

6. Learned counsel for the appellants has argued that there is no explanation as to why the suit property purchased by the plaintiffs was not entered in the *jamabandis* and why the plaintiffs did not get the mutations sanctioned. Even appellant Bhane, while appearing as DW-1, denied the execution of Power of Attorney dated 16.06.1992 (Ex.PW-6/A) in favour of his brother. It is further argued that the Power of Attorney was not proved and the appellant has denied the execution of sale deed. So, recitals in the sale deed are not binding upon the appellant and simple suit for possession was not maintainable.

7. I have heard the submissions of learned counsel for the appellants and perused the case file.

8. The plaintiff examined Jai Bhagwan, Assistant HRA, DC Office, Jhajjar as PW-6, who proved the Power of Attorney dated 16.06.1992 (Ex.PW-6/A). He also proved register regarding original Power of Attorney as Ex.PW-6/B. The Deed Writer namely Madanpal Sharma, who was examined as PW-8, also proved the execution of said Power of Attorney dated 16.06.1992. The Handwriting and Finger Print Expert namely Vishnu Bhagwan Kashyap (PW-7) proved his report that disputed thumb impressions of Bhane on the Power of Attorney (Ex.PW-6/A) and specimen thumb impressions of Bhane were of one and same person.

9. Learned Trial Court observed that Bhane was outrightly lying about the execution of Power of Attorney. Once the execution of Power of Attorney is proved then challenge to execution of sale deed on the basis of said Power of Attorney is without any basis. It is well settled that mutation of a property in revenue record neither creates nor extinguishes title. The

said entries are made only for the fiscal purpose.

10. The findings of fact recorded by the learned Trial Court have been affirmed in the appeal. There is neither any misreading nor misappreciation of evidence on record. No question of law, much less substantial question of law, arises in the present appeal. The appeal is without any merit and is accordingly dismissed in limine.

11. Pending applications, if any, shall stand disposed of along with this judgment.

April 08, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.