

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

Date of decision : 16.05.2024

...Appellants

Vs.

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Mr. Kanwal Goyal, Advocate and
Ms. Sheena Dahiya, Advocate and
Ms. Simranjot Singh, Advocate
for the respondents.

ANIL KSHETARPAL, J. (Oral)

1. In this regular second appeal, the defendants assail the correctness of concurrent findings of fact arrived at by the Courts below while decreeing the suit filed by the plaintiffs (respondents herein) for the grant of decree of permanent injunction.

2. Multiple applications for permission to lead additional evidence have been filed before this Court. The applications shall be considered, if found necessary for just decision in the case.

3. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.



4. Originally, the suit land was owned by Mrs. Punjab Kaur who sold the same vide registered sale deed dated 12.06.1964 (Ex. P-3), in favour of Sh. Babu Singh, Sh. Mukhtiar Singh and Sh. Gurdev Singh who in turn sold the property in favour of the respondents (plaintiffs) Sh. Gurdev Singh etc. vide registered sale deed dated 17.06.1965 (Ex.P-1). The entry of the sale deed in the revenue record was made, however, it was never sanctioned. Subsequently, the respondents came to know that the heirs of Mrs. Punjab Kaur are planning to sell the property, which has already been sold to them. Hence, they filed a suit for permanent injunction on 06.05.1987. However, heirs of Mrs. Punjab Kaur executed the sale deed on 01.06.1987, in favour of the appellants (defendants). In order to prove the sale deed dated 12.06.1964, executed by Mrs. Punjab Kaur, the plaintiffs examined the marginal witness of the sale deed. In order to prove the sale deed executed by their vendors, the plaintiffs examined the scribe because both the marginal witnesses had died by then.

5. On the other hand, the defendants proved the sale deed on 01.06.1987, in their favour.

6. Upon appreciation of evidence both the Courts decreed the plaintiffs suit.

7. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book alongwith the requisitioned record of the Courts below.

8. Learned counsel representing the appellant submits that the appellants are the *bona fide* purchaser of the property, the appellants No. 1 to 3 have purchased the property, whereas, the remaining appellants are heirs of



Mrs. Punjab Kaur. Hence, the Courts below have erred in decreeing the plaintiffs suit. He further submits that the appellants have relied upon the revenue record, which was subsequently found to be incorrect and therefore, their suit should have been dismissed.

9. This Court has considered the submissions made by the learned counsel representing the parties.

10. The appellants purchased the property during the pendency of the previous suit filed by the plaintiffs on 06.05.1987. Hence, they are not entitled claim they are the *bona fide* purchasers. Furthermore, as per Section 48 of the Transfer of the Property Act, 1882, the appellants rights are subservient to the rights of the plaintiffs, who had purchased the property in the year 1964. The title of the plaintiffs relates back to 12.06.1994, when their predecessors purchased the suit land from Smt. Punjab Kaur.

11. The plaintiffs have filed an application for permission to lead additional evidence in order to prove the judgment passed on 15.03.1990 in their previous suit which in appeal was upheld on 01.03.1994. The regular second appeal against the concurrent judgment was dismissed by the High Court on 09.09.1994.

12. On the other hand, the appellant has filed applications for permission to lead additional evidence to produce on record the revenue record, the applications and various reports of the inquiries made for the correction of the revenue record. In the considered opinion of the Court, the applications filed for permission to lead additional evidence do not need to allowed, particularly when the appellants have absolutely no case.



13. Hence, no ground to interfere is made out.
14. Dismissed.
15. All the pending miscellaneous applications, if any, are also disposed of.

16.05.2024
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(ANIL KSHETARPAL)
JUDGE

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