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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1041-2021 (O&M)
Date of decision : 02.08.2024

M/S RAVINDRA FEEDS INDIA MACHHRAULI PVT LTDAppellant

Versus

VANDANA MALIK AND ANRRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Rajesh K. Kataria, Advocate
for the appellant.

PANKAJ JAIN, J. (ORAL)

Plaintiff is in appeal.

2. For convenience, parties herein after are referred to by their original position in the suit i.e. the appellant as plaintiff and the respondents as defendants.

3. Plaintiff sought decree of declaration to the effect that the sale deed bearing Vasika No.3251 dated 27th of March, 2009 and the consequential mutation bearing No.3141 are illegal, null and void and not binding on the rights of the plaintiff. Further decree of declaration was sought to the effect that sale deed bearing Vasika No.437 dated 10th of May, 2010 and the consequential mutation No.2996 are legal, valid and binding upon the rights of the parties. Thus, in a way the plaintiff challenged the



sale deed dated 27th of March, 2009 in favour of the defendants and propounded sale deed in his favour dated 10th of May, 2010.

4. Suit was resisted by the defendants. It was claimed that Karan Singh son of Daiya was owner in possession of the suit property, agreed to sell the same vide agreement to sell dated 6th of May, 2005 in favour of the answering defendant for a sale consideration of Rs.2,60,000/- and received Rs.60,000/- as earnest money. However, with a *mala fide* intention and to defeat the rights of the defendant, he executed sale deed dated 28th of June, 2006 in favour of his son Sandeep Singh. Defendant No.1 filed suit seeking decree of specific performance of agreement to sell dated 6th of May, 2005 executed in her favour by Karan Singh son of Daiya the actual owner. Initially the suit was dismissed. However later on in appeal the suit was decreed. Executant of agreement to sell was directed to execute the sale deed in favour of defendant No.1. In execution of the said decree, sale deed was executed in favour of defendant No.1 on 27th of March, 2009 and thus to claim that the sale deed was result of fraud was wrong and against the record.

4. On the basis of the pleadings of the parties, Trial Court framed the following issues :

- “1. Whether the plaintiff is entitled to decree for declaration as prayed for? OPP.
2. Whether the plaintiff is entitled to decree for permanent injunction as prayed for? OPP



3. Whether the suit is not maintainable in the present form?
OPD.
4. Whether the plaintiff has no cause of action to file the
present suit? OPD.
5. Relief”

5. While deciding Issues No.1 and 2 Courts below have held that it stands proved that the sale deed dated 27th of March, 2009 has been executed in favour of the defendant No.1 in execution of the decree of the Court and thus it cannot be held that the same was result of any fraud and dismissed the suit filed by the plaintiff.

6. Counsel for the appellant while assailing the impugned judgments and decree passed by the Courts below submits that the Courts below have not considered his right of being a *bona fide* purchaser for consideration. He further asserts that the plaintiff is in possession and cannot be dispossessed except in due course of law.

7. I have heard counsel for the appellant and have carefully gone through records of the case with his able assistance.

8. The title of Karan Singh is not disputed. It has already come on record that Karan Singh entered into agreement to sell in favour of defendant No.1 and in order to defeat her right executed sale deed in favour of his son while suit for specific performance was pending against him. After defendant No.1 succeeded in the civil suit, sale deed under challenge was executed. Thus, sale deed being claimed by the plaintiff in his favour was



executed only with an intent to defeat the rights of defendant No.1 that too after sale deed already stood executed in favour of defendant No.1 on 27th of March, 2009. So far as prayer of the counsel for the appellant w.r.t. possession of the plaintiff is concerned, the same is also misconceived. The suit filed was simple suit for declaration.

9. In view of above, this Court does not find any reason to interfere in the present appeal. Resultantly, the same is dismissed.

August 02, 2024
Dpr

(Pankaj Jain)
Judge

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