

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ESA No.34 of 2011 (O&M)
Date of Order:25.01.2024

Radha Krishan .Appellant
Versus

Satpal (since deceased) through LRs and another ..Respondents

COCP No.3452 of 2012(O&M)

Radha Kishan .Petitioner
Versus

Satpal Singh ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anurag Jain, Advocate,
for the appellant.

Mr. Jagjeet Beniwal, Advocate
for respondent no.1.

ANIL KSHETARPAL, J

1. This order shall dispose of ESA No.34 of 2011 and the COCP No.3452 of 2012.
2. In this case, the dispute is between two separate decree holders. In their favour two separate decrees for possession by way of specific performance of the agreement to sell have been passed. In other words, the competing claims of Sh. Radha Krishan and Sh. Satpal with respect to the suit property have come up for adjudication.
3. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed.
4. The suit property originally belongs to Sh. Ranbir Sharma. After his death, three class-I heirs, namely, Sheela Devi, widow and two sons Sh. Radhey Shyam and Sh. Navin inherited the property in equal

shares. Subsequently, two sons Sh. Radhey Shyam and Sh. Navin transferred their share in favour of Smt. Sheela Devi, which resulted in the absolute ownership being in favour of Smt. Sheela Devi.. She executed an agreement to sell in favour of respondent-Sh. Satpal on 16.06.2003 after receipt of Rs.4,10,000/- as earnest money. However, before the sale deed could be executed, Smt. Sheela Devi dishonestly transferred the property in favour of her son Sh. Radhey Shyam by way of a transfer deed dated 15.09.2003.

5. Sh. Satpal, the respondent, filed a suit for specific performance of the agreement to sell dated 20.12.2004, which was decreed on 03.11.2006. Before that date, Sh. Radhey Shyam is alleged to have entered into an agreement to sell in favour of Sh. Radha Krishan, on 15.11.2003. Sh. Radha Krishan also filed a suit for specific performance of the agreement to sell which was also decreed on 09.04.2008. In two separate execution petitions filed by Sh. Radha Krishan and Sh. Satpal, the sale deeds of the same property have been executed. In the execution petition filed by Sh. Radha Krishan, Sh. Satpal filed objection petition which was though dismissed by the Executing Court, however, reversed by the first appellate court.

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the appellant submits that Smt. Sheela Devi and Sh. Radhey Shyam have cheated the appellant and lured him into an agreement to sell. He submits that the appellant is a bonafide purchaser of the property.

8. On the other hand, the learned counsel representing the

respondent-Satpal, contends that the agreement to sell in his favour was executed on 16.06.2003, i.e. prior in point of time as compared to Sh. Radha Krishan. He submits that the first appellate court has correctly accepted the objection petition filed by Sh. Satpal.

9. This court has considered the submissions of the learned counsel representing the parties.

10. Though, the agreement to sell does not in itself create any right in the immovable property, however, it certainly creates a right to enforce the contract in accordance with the provisions of the Specific Relief Act, 1963. Admittedly, Sh. Satpal is a holder of a prior agreement to sell as compared to Sh. Radha Krishan. Hence, the rights, if any, of Sh. Radha Krishan are subservient to Sh. Satpal. Once a decree has been passed in favour of Sh. Satpal for specific performance of the agreement to sell, his right to property becomes superior as compared to Sh. Radha Krishan. Though, there is some substance in the argument of the learned counsel representing the appellant (Sh. Radha Krishan) that he is a victim of misrepresentation and cheating at the hands of Sh. Radha Krishan, however, that itself would not be sufficient to defeat the right of Sh. Satpal.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere in Execution Second Appeal is made out.

12. Dismissed accordingly.

13. However, Sh. Radha Krishan may avail alternative remedies against Sh. Radhey Shyam or Smt. Sheela Devi, as the case may be.

14. In COCP No.3452 of 2012, the infringement of the interim orders passed by this Court is alleged by Sh. Radha Krishan against Sh.

Satpal.

15. In view of the aforesaid discussion, Sh. Satpal is the owner of the property. Hence, no further order is required to be passed in the contempt petition.
16. The contempt petition is disposed of accordingly.
17. All the pending miscellaneous applications, if any, are also disposed of.

January 25, 2024
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: YES/NO

Whether reportable: YES/NO