

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

RSA No.4040 of 2018 (O&M)
Date of Decision: 16.02.2024

Smt. Mani Devi
...Appellant
Versus
Prithvi Singh & others
...Respondents

CORAM: HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Vijay Deep Rathee, Advocate,
for the appellant.

* * * *

MEENAKSHI I. MEHTA, J.

Feeling aggrieved by the judgment and decree as passed by learned Civil Judge (Junior Division), Mahendergarh (for short ‘the trial Court’) on 14.07.2014, whereby the Civil Suit filed by respondent No.1-plaintiff (here-in-after to be referred as ‘the plaintiff’) against respondent No.2-defendant No.1 (here-in-after to be referred as ‘defendant No.1’), the appellant-defendant No.2 (here-in-after to be referred as ‘defendant No.2’) and proforma respondents-defendants No.3 to 6 (here-in-after to be referred as ‘the proforma-defendants’), has been decreed and also by the judgment and decree as handed down by learned Additional District Judge, Narnaul (for short ‘the Lower Appellate Court’) on 10.04.2018, qua the dismissal of the appeal moved by defendant No.2 to assail the above-said judgment and decree dated 14.07.2014, she (defendant No.2) has chosen to prefer the instant Regular Second Appeal to lay challenge to the same.

2. Shorn and short of unnecessary details, the facts, as emerging from the perusal of the file and culminating in the filing of the present appeal, are that the plaintiff filed the afore-referred Civil Suit for seeking a

decree for declaration to the effect that he and the proforma-defendants were owners in possession of the suit land and the judgment and decree passed on 08.06.2002 and the sale-deeds executed on 09.03.2006 and 18.05.2006 as well as Mutations No.3020 and 3021 as sanctioned in respect of the said land, were illegal, null and void and he also prayed for the grant of relief of injunction for restraining defendants No.1 and 2 from alienating this land, while averring that Chander Bai was the owner of the suit land and he and the proforma-defendants are her children and defendant No.1 is her nephew who used to look after the said land in her absence. Chander Bai had died on 03.01.1991 but defendant No.1 fraudulently got an agreement to sell this land, executed in his favour on 21.07.1998, by impersonating his own mother as Chander Bai and then, he filed a Civil Suit against her for seeking specific performance of the above-said agreement which was decreed vide the *ex-parte* judgment and decree passed on 08.06.2002 and in pursuance of the execution proceedings as conducted in respect thereof, a sale-deed had been executed in his (defendant No.1's) favour on 09.03.2006, through the Local Commissioner, on behalf of the legal representatives of Chander Bai. Thereafter, he (defendant No1), in collusion with defendant No.2, executed a sale-deed in her (defendant No.2's) favour on 18.05.2006 and a criminal case had also been registered against him (defendant No.1) in this regard. Defendant No.2 filed her written-statement, controverting the claim of the plaintiff therein on various grounds. Then, the parties were put to the trial by framing the issues and after appreciating and evaluating the evidence as led by them on the record and hearing their respective counsel, the trial Court decreed the Suit and the appeal, filed by defendant No.2 against the afore-referred judgment and decree as passed by the trial Court, has been dismissed, as already discussed in the opening para of this judgment.

3. I have heard learned counsel for the appellant-defendant No.2 in the instant appeal, at the preliminary stage and have also gone through the file carefully.

4. Learned counsel for defendant No.2 argues that Exhibit P1, i.e the death-certificate of Chander Bai, wherein the date of her death has been certified to be 03.01.1991, is incorrect because the name of her father has not been mentioned therein but both the Courts below have wrongly relied upon the same and have erroneously accepted the claim of the plaintiff and in these circumstances, it becomes explicit that the impugned judgments and decrees are not legally sustainable and deserve to be set aside.

5. However, the above-raised contentions are bereft of any merit because the trial Court and the Lower Appellate Court have concurrently observed that in the death-certificate Exhibit P1, as duly issued by the Competent Authority, the name of the husband of Chander Bai has rightly been mentioned as Jagmal and it sufficiently proved that she had died on 03.01.1991 and it being so, the agreement to sell, as claimed by defendant No.1 to have been executed by her in his favour on 21.07.1998 and also the *ex-parte* judgment and decree, as passed on 08.06.2002 in the Suit filed against her in the year 1999, i.e after her death and the sale-deeds dated 09.03.2006 and 18.05.2006 and Mutations No.3020 and 3021, were liable to be set aside and that defendant No.2 had also not been able to establish her plea qua her being a *bona-fide* purchaser. Defendant No.2 has not been able to show as to how the afore-discussed observations, as made by both Courts below, are wrong or perverse in any manner.

6. As a sequel to the fore-going discussion, it follows that the impugned judgments and decrees, as passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to call for

any interference by this Court. Resultantly, the same are, hereby, upheld and the Regular Second Appeal in hand, being *sans* any merit, stands dismissed accordingly.

16.02.2024
seema

(MEENAKSHI I. MEHTA)
JUDGE

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