



2025:UHC:1306

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal from Order No.47 of 2025

Ranjit Kumar Singh

....Appellant

Versus

Rekha Agarwal and others

.... Respondents

Present:

Mr. Abhishek Verma, counsel for the appellant.

Dated: 24.02.2025

Hon'ble Alok Mahra, J. (Oral)

This appeal has been filed by the appellant against the order dated 10.02.2025 passed by the Court of Civil Judge, (S.D.), District Haridwar in O.S. No.320 of 2024, '*Ranjit Kumar Singh Vs. Smt. Rekha Agrawal and others*,' whereby the Court below dismissed the application under Order 39 Rule 1 & 2 for Temporary Injunction on merits.

2. Brief facts of the case are that the appellant has filed an application under Order 39 Rule 1 & 2 r/w Section 151 of CPC praying that pending adjudication of this suit, an ad interim temporary injunction should be issued against the defendants restraining them from interfering in the peaceful possession over the suit property.

3. As per the case pleaded by the appellant, the appellant has purchased a portion of Plot No.D-2 from one Smt. Ruby Singh through a registered sale deed dated 23.11.2022 by paying consideration of Rs.18,82,000/-. After purchasing the plot, he had constructed a house and was residing in it peacefully.

4. On perusal of the impugned order, it has come out that the Plot D-2 originally belongs to predecessor-in-interest Sri Sangeet Kumar Agrawal. The said plot was wrongly and without any right or authority sold by Nagarjuna Odedra to Keshav Dutt & Dinesh Chandra vide sale deed dated 27.01.2004. Keshav Dutt & Dinesh Chandra sold it to Amit Kumar Sharma & Smt. Mahendra Kaur vide sale deed dated 19.05.2006. It was again sold by Amit Kumar Sharma & Smt. Mahendra Kaur to Naveen Kumar vide sale deed dated 07.07.2007, who executed a sale deed of the same on 12.10.2011 in favour of Smt. Vimla Devi. Smt. Vimla Devi sold it to Kuldeep Chaudhary on 25.06.2013 and Kuldeep Chaudhary executed a sale deed dated 27.05.2015 in favour of the predecessor of the plaintiff Smt. Ruby Singh.

5. The owner of the property Sri Sangeet Kumar Agrawal had filed a civil suit no. 419 of 2007 against 18 defendants seeking cancellation of 16 sale deeds wrongly executed by them. The said suit was decreed on

31.05.2016 and all the 16 sale deeds were declared null & void by the Court of Civil Judge (S.D.), Haridwar. The said decree has attained finality and execution proceedings for the same are pending in the Court. In the said civil suit Nagarjun Odedra, Raj Kumar, Keshav Dutt & Dinesh Chandra were defendants. The Court below held that since the sale executed by Nagarjun Odedra, Raj Kumar, Keshav Dutt & Dinesh Chandra were void, therefore, subsequent sale deeds by subsequent vendees are also void *ab initio* as they have executed sale deed without any right during the pendency of the said suit. The learned court below after considering all the material facts came to the conclusion that since the title over and interests in the suit property of the predecessors of the plaintiff have been invalidated by the Court's order dated 31.05.2016, therefore, there is no *prima facie* case in his favour at the interim stage of the suit and, as a consequence, the application 7C filed under Order 39 Rule 1 & 2 was dismissed.

6. After hearing the learned counsel for the appellant and perusal of the impugned order, this Court is of the view that there is no infirmity in the order impugned in the present appeal. It is settled preposition of law that vender cannot transfer a better title than what they possess. This is "*nemo dat quod non habet*" means

“no one can give what they do not have”. As discussed above, thus, the sale deeds executed in favour of the earlier vender have been declared to be void *ab initio* and the judgment has attained finality.

7. In the considered view of this Court, the order passed by the learned court below is correct and justified in the facts and circumstances of the case and therefore does not call for any interference by this Court.

8. Accordingly, the appeal lacks merit and is dismissed *in limine*.

(Alok Mahra, J.)
24.02.2025