



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

ESA-204-2018 (O&M)
Date of decision: 02.04.2025

BEGH RAJ & ORS

..Appellants

Versus

RANJEET SINGH & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shailendra Jain, Sr. Advocate
with Mr. Munish Kumar, Advocate
Mr. Rahul, Advocate
for the appellants.

Mr. Amit Jaiswal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

I. Brief facts:-

1. The appellants herein assail the correctness of First Appellate Court's order, which in turn has reversed the order passed by the Court of first instance.
2. In substance, the appellants have purchased the property during the pendency of the suit, hence, the purchase is governed by rule of *lis pendens*.
3. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.
4. Sh. Harpal Singh was owner of 17 kanals and 15 marlas land. He sold 3 kanals 4 marlas in favour of Sh. Braham Singh on 21.11.1983. Then, he died. The property was inherited by his widow Smt. Ramesh and minor daughter Smt. Kumari Randhiro, who in turn executed an agreement to sell in favour of Sh. Randhir Singh on 13.10.1988, with respect to 17



kanal and 15 marla land on receipt of Rs.1,00,000/- as earnest money out of total sale consideration of Rs.2,35,969/-. The application for permission to sell the share of Smt. Kumari Randhiro (minor) was filed, which was granted on 02.09.1989. Sh. Ranjeet Singh filed a suit for permanent injunction against Smt. Ramesh and Smt. Kumari Randhiro. However, Smt. Ramesh executed a sale deed with respect to land measuring 7 kanal 6 marla in favour of Sh. Sumesh on 05.05.1990. Consequently, Smt. Ramesh executed another sale deed of 7 kanal and 5 marla in favour of Sh. Hari Ram on 16.10.1990. Sh. Sumesh sold 1 kanal and 10 marla land to Sh. Mahender and Sh. Inderpal on 10.04.1991. Subsequently, Sh. Sumesh sold 5 kanal and 16 marla land to Sh. Hari Ram on 18.10.1991. Sh. Hari Ram then executed a lease deed for 5 kanal land in favour of Sh. Sukhdev father of Sh. Begraj, Sh. Ram Singh, Sh. Dhan Raj and Sh. Udham Singh on 20.05.1993. On 19.05.1994, Sh. Mahender executed a sale deed in favour of Sh. Begraj with respect to 15 marla land. Sh. Ranjeet Singh's application for permission to amend the plaint to convert the suit for injunction into suit for specific performance was allowed on 03.05.1996. The defendants were proceeded against ex parte. Subsequently, an application under Order IX Rule 7 of the Code of Civil Procedure, 1908 (in short 'CPC') to set aside ex parte order was filed, which was allowed on 23.02.1999. Ultimately, the suit for specific performance was decreed on 24.12.1999, which in first appeal as well as second appeal was upheld. Sh. Braham Singh on 21.11.2005 sold the land measuring 3 kanal and 4 marla in favour of M/s Country Wide Pvt. Ltd. In execution of the decree for specific performance, sale deed was executed in favour of the decree holder Sh. Ranjeet Singh.



5. Two objection petitions were filed, one by M/s Country Wide Pvt. Ltd. and second was filed by Sh. Begraj, Sh. Dhan Raj, Sh. Udham Singh sons of Sh. Sukhdev and Sh. Satbir, Sh. Harbir, Sh. Hans Raj sons of Sh. Hari Ram, which were allowed by the Executing Court. However, the First Appellate Court dismissed the decree holder's appeal qua the objections filed by M/s Country Wide Pvt. Ltd. but allowed the appeal qua the appellants namely Sh. Begraj, Sh. Dhan Raj, Sh. Udham Singh etc. as they are found to be purchasers of the property during the pendency of the specific performance.

II. Arguments addressed:-

6. Learned Senior counsel for the appellant has submitted that in fact there was collusion between Smt. Ramesh and Smt. Kumari Randhiro on one hand and Sh. Ranjeet Singh on the other hand. He submits that agreement to sell qua 17 kanal and 15 marla could not be executed as Sh. Harpal during his lifetime has sold 3 kanal and 4 marla out of 17 kanal and 15 marla land. He further submits that Sh. Ranjeet Singh did not restrain Smt. Ramesh and Smt. Kumari Randhiro from selling the property and during the pendency of the suit for injunction, multiple sale deeds were executed.

III. Analysis and Discussion:-

7. This Court has considered the submissions of learned counsel for the appellants.

8. It is evident that Sh. Ranjeet Singh filed suit for injunction on 19.01.1990. The Court may not have granted injunction, however, Sh. Ranjeet cannot be accused of inaction. Moreover, it was Smt. Ramesh and Smt. Kumari Randhiro, who executed agreement to sell with respect to 17



kanal and 15 marla land in favour of Sh. Ranjeet Singh. The sale in favour of M/s Country Wide Pvt. Ltd. has been exempted from implementation of decree as Sh. Braham Singh has purchased the property before execution of the agreement to sell. Moreover, Smt. Ramesh and Smt. Kumari Randhiro contested the suit firstly by filing application under Order IX Rule 7 of the 'CPC', which was allowed. Thereafter, they filed first and second appeal.

9. Rule of *lis pendens* as provided under Section 52 of the Transfer of Property Act, 1882, will not be applicable only if the appellants proved collusion between the decree holder and judgment debtor. From the facts, which have already been noticed, this Court does not find it appropriate to record any finding that there was collusion between Smt. Ramesh and Smt. Kumari Randhiro on the one hand and Sh. Ranjeet Singh on the other hand.

IV. Decision:-

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

April 02nd, 2025

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**(ANIL KSHETARPAL)
JUDGE**

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