



RSA No.2077 of 2019 (O&M)
S. No.112

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2077 of 2019 (O&M)
Date of Decision:11.03.2025

Smt. Sushma

.....Appellant

Vs.

Zile Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rajender Singh Malik, Advocate
for the appellant.

DEEPAK GUPTA, J. (Oral)

Suit for specific performance filed by plaintiff – Zile Singh (*respondent No.1 herein*) was decreed by the trial Court on 21.03.2016. Apart from directing the defendant No.1 – Mange (*respondent No.2 herein*) to execute and get registered the sale deed of the suit land in favour of the plaintiff, on payment of the balance sale consideration, the sale deed dated 18.06.2010 executed by defendant No.1 in favour of defendant No.2 – Sushma (*appellant herein*) during pendency of the suit was declared to be null and void and not binding on the rights of the plaintiff.

2. Defendant No.1 – Zile Singh did not prefer any appeal against the afore-said judgment and decree of the trial Court. However, defendant No.2 – Smt. Sushma preferred the appeal but the same has been dismissed by the First Appellate Court on 01.10.2018 and against the same, present appeal has been filed by defendant No.2.

3. According to plaintiff, defendant No.1 being owner in possession of suit land measuring 08 kanal, agreed to sell the same to him (plaintiff) for consideration of ₹10 lakhs vide an agreement dated 30.05.2008 and received earnest money of ₹8 lakhs. Target date for execution and registration of the sale deed was agreed to be 29.05.2009 on which date, balance consideration was to be paid. Plaintiff attended the Office of Sub Registrar on target date along with

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balance sale consideration and other expenses but defendant No.1 did not appear. Plaintiff got attested his affidavit before the Executive Magistrate. Claiming that he has always been ready and willing to perform his part of contract and had also served a legal notice upon defendant No.1 on 30.05.2009 calling upon him to perform his part of contract, plaintiff brought the suit on 12.08.2009 seeking specific performance.

4. Initially, defendant No.2 – Sushma was not a party. She was arrayed as defendant No.2 vide order dated 20.08.2014. Plaintiff also sought decree of declaration that sale deed dated 18.06.2010 executed by defendant No.1 in favour of said defendant No.2 was null and void.

5. Defendant No.1 – Zile Singh denied execution of agreement to sell in favour of plaintiff or receipt of any earnest money. According to him, he had executed an agreement to sell dated 08.03.2007 in favour of Suresh Kumar, the husband of defendant No.2. He prayed for dismissal of the suit.

6. Defendant No.2 in separate written statement supported the stand of defendant No.1 and also claimed to be bonafide purchaser for consideration.

7. After framing necessary issues and taking evidence produced by the parties, suit for specific performance was decreed. The sale deed dated 18.06.2010 was declared null and void. The appeal filed by defendant No.2 has been dismissed, as already noticed.

8. Assailing the afore-said concurrent findings, it is contended by learned counsel for the appellant- defendant No.2 that defendant No.2 had purchased the suit property vide sale deed dated 18.06.2010 in pursuance to the agreement to sell dated 08.03.2007, which defendant No.1 had executed in favour of husband of the appellant- defendant No.2 and, therefore, the sale deed in her favour could not be set aside, as agreement to sell in favour of the husband of appellant was prior in time, comparing to agreement to sell in favour of the plaintiff.

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9. There is no merit in the contention. It has been noticed by the Courts below that during pendency of the suit, Suresh - the husband of appellant-defendant No.2 had moved an application under Order 1 Rule 10 CPC for his impleadment. However, the said application was withdrawn on 18.06.2014. Admittedly, the appellant had purchased the suit property on 18.06.2010 i.e. during pendency of the suit and it had not been disputed that she was well aware of the pendency of the suit.

10. In the afore-said facts and circumstances, it has been rightly concluded by the Courts below that sale deed in favour of the appellant-defendant No.2 could not be protected under Section 52 of the Transfer of Property Act, as she cannot be termed as a bonafide purchaser for consideration.

11. This Court does not find any illegality or perversity in the concurrent findings of fact, as recorded by the Courts below, calling for any interference. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

March 11, 2025**renu****(DEEPAK GUPTA)****JUDGE**

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No