

“it Is Ordered That Decree for Declaration Is Hereby Vs. the Narnaul Primary Coop Agricultural

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Court : Punjab and Haryana

Decided On : Feb-05-2014

Appellant : “it Is Ordered That Decree for Declaration Is Hereby

Respondent : The Narnaul Primary Coop Agricultural

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
Rs.No.5153 of 2013(O&M) Date of decision: 05.02.2014 Ved Parkash
.....Appellant(s) Versus The Narnaul Primary Coop Agricultural and Rural Dev.

Bank LTD.& ors.....Respondent(s) CORAM:- HON'BLE MR.JUSTICE RAKESH
KUMAR GARG * * * Present: Mr.Deepak Balyan, Advocate for the appellant.

Rakesh Kumar Garg, J.

(Oral) CM No.1347-C of 2014 & CM No.13849-C of 2013 For the reasons mentioned in the application, delay of 6 days in refiling the appeal is condoned.

CMs stand disposed of.

Rs.No.5153 of 2013(O&M) The appellant and proforma respondents filed a suit seeking decree for declaration to the effect that they are owners in possession of

the suit land on the basis of judgment and decree dated 5.2.1991 and the sale deed dated 27.7.1995 and mortgage deed dated 19.12.2001 in favour of defendant No.1 are illegal, null and void being based upon fraud and misrepresentation and are not binding upon the plaintiffs.

The plaintiffs sought relief of injunction also against the defendants restraining them from interfering into their possession over the suit land and from alienating the same.

The said suit was decreed by the trial Court in the following terms. It is ordered that decree for declaration is hereby passed in favour of plaintiffs and against defendants to the effect that plaintiffs being Saini Pushpinder 2014.03.01 11:15 I attest to the accuracy and integrity of this document High Court Chandigarh Rs.No.5153 of 2013(O&M) -2- owners of the suit land are entitled to get the revenue entries changed in their favour.

The sale deed dated 27.7.1995 and mortgage deed dated 19.12.2001 are hereby held as illegal, null and void and are not binding upon plaintiffs.

The defendants are also restrained from interfering into ownership and possession of plaintiffs over the suit land in any manner.

Suit of plaintiffs is accordingly decreed with costs.

Aggrieved from the aforesaid judgment and decree of the trial Court, defendants filed an appeal before the FiRs.Appellate Court which was partly allowed vide impugned judgment and decree dated 30.7.2013 with modification in the relief clause to the extent of declaring the plaintiffs as owners in joint possession over the suit land along with defendants No.2 to 4.

Aggrieved from the aforesaid modification of the judgment of the trial Court, the plaintiffs have filed the instant appeal raising the grievance that they were entitled to exclusive possession of the suit property.

However, during the couRs.of arguments, counsel for the appellant could not dispute the fact that the defendant-respondents are recorded as co-sharers in the joint Khata as per jamabandi Ex.P6 on the basis of which the plaintiff has filed the instant suit.

In view of the aforesaid fact alone, this Court finds no merit in this appeal as there is nothing on record to suggest that the appellants being co-sharers were in exclusive possession of the suit property.

In view thereof, no substantial question of law arise.

Dismissed.

February 05, 2014 (RAKESH KUMAR GARG) ps JUDGE Saini Pushpinder
2014.03.01 11:15 I attest to the accuracy and integrity of this document High Court
Chandigarh

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