

Boor Singh and Others Vs. Nanak Singh and Others

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Court : Punjab and Haryana

Decided On : Aug-05-2014

Appellant : Boor Singh and Others

Respondent : Nanak Singh and Others

Judgement :

Rs.No.3357 of 2012 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH Rs.No.3357 of 2012 (O&M) Date of decision: 5.8.2014 Boor Singh and others Appellants Versus Nanak Singh and others Respondents
CORAM: HON'BLE Mr.JUSTICE RAJESH BINDAL Present: Mr.R.K.Arya, Advocate, for the appellants.

RAJESH BINDAL, J The appellants-plaintiffs are before this Court against the concurrent findings recorded by both the courts below, whereby, the suit filed by them for permanent injunction restraining the respondents- defendants from interfering into possession of the suit property, was dismissed.

The claim was set up by the appellants on the ground that the property in dispute was purchased by them from Gurdas Singh son of Ram Singh vide agreement dated 26.10.1990 and since then they are in possession thereof.

Both the courts below found that the appellants had not been able to make out their case, hence dismissed the suit.

Learned counsel for the appellants submitted that the suit property comprised KhaSr.No.230 i.e Garha Khaad, measuring 7 marlas of land, was in possession of Nathu Ram, who sold the same to Dayal Singh and Mula Singh vide sale deed dated 19.2.1959 and later on Dayal Singh sold his share i.e.3.5 marlas of land to Ram Singh, father of Gurdas Singh.

The appellants purchased the same from Gurdas Singh vide agreement dated 26.10.1990.

Ever since then they were in possession thereof.

Possession of the appellants over the suit property deserves to be protected, however, both the courts below declined the relief by misreading the evidence produced on record.

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Chandigarh Rs.No.3357 of 2012 -2- After hearing learned counsel for the appellants, I do not find any merit in the submissions made.

The claim of the appellants is based on an agreement allegedly executed by Gurdas Singh on 26.10.1990 in favour of the appellants.

It is not in dispute that in the Jamabandi Ex.P-4 produced on record by the appellants, Shamlat Deh has been shown to be the owner of KhaSr.No.230, which is Garha Khaad and Dayal Singh was merely shown to be in possession thereof.

Meaning thereby, Dayal Singh, who allegedly sold the property in question to Ram Singh father of Gurdas Singh from whom, the appellants claimed that they had purchased the same, was never owner of the property.

Hence, he could not have passed on title of the property in favour of the vendor to the appellants and consequently to the appellants.

Further the claim of appellants of ownership is based on an agreement to sell dated 26.10.1990 allegedly executed in their favour by Gurdas Singh but the same will not confer title of the property on the appellants as the consideration being more than ` 100/-, the same required registration, as the right in immovable

property was being transferred.

Still further the learned lower appellate court found that no revenue record has been produced by the appellants to show their possession over the property.

In the absence thereof, the claim of the appellants seeking injunction was rightly declined by both the courts below.

No substantial question of law arises.

Accordingly the appeal is dismissed.

(RAJESH BINDAL) JUDGE58.2014 sharmila SHARMILA201408.06 16:31 I attest to the accuracy and integrity of this document Chandigarh

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