

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

RSA NO. 1928 OF 2004  
DATE OF DECISION:31.3.2008

Rakesh

...Appellant

versus

Om Parkash and others.

...Respondents

**CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI**

Present: Mr. Amit Jain, Advocate  
for the appellant.

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**PERMOD KOHLI, J. (ORAL)**

The appellant-plaintiff has filed the instant Regular Second Appeal against the findings recorded by the courts below. He filed a suit for declaration to the effect that he is owner in possession of plot no. 5024 situated in Lakshmi Garden comprising in Khasra No. 1083 within the revenue estate of village Gurgaon shown by letters ABCD in the red colour in site plan. He claimed that the said plot was purchased by him from his father Om Parkarsh vide sale deed No. 6770 dated 13.12.1984 (Ex. P/2) for a consideration of Rs. 5,000/- The dimension of the said plot is 55' x 30' and the boundaries are also given. The plaintiff has also challenged the sale deed dated 28.1.1987 Ex.DW6/1 executed by defendant Nos.3 and 4 in favour of defendant No.5 and also the sale deed dated 25.9.1987 Ex. DW2/1 executed by defendant No.5 in favour of defendant No.6.

Defendant No.1 did not contest the suit. Defendant Nos. 2 to 6 are contesting the suit. Defendant No.2 pleaded that his father was a co sharer to the extent of  $\frac{1}{4}$ <sup>th</sup> share in khasra No. 1083 who sold his share in khasra no. 1083 and retained the plot in dispute for his personal use and defendant No.2 was continuing in possession as owner of the plot in dispute for the last 20 years. Defendant Nos. 3 to 5 claimed that the plot in dispute is part of land bearing plot No. 5024 khasra No.1083 which was initially joint holding, in which there were various co-sharers and after the private partition long back the plot in dispute had

fallen to the share of Sunil Kumar son of Sh.Kanwal Singh defendant No.3 and Smt. Vijay Kumari daughter of Kanwal Singh defendant No.4. It is also stated that defendants No. 3 and 4 sold the plot to defendant No.5 for a sale consideration of Rs. 10,000/- vide registered sale deed 28.1.1987 and after purchasing the plot in dispute, the property was enclosed by boundary wall which is six feet high and also constructed a room over the plot in dispute. Defendant No. 6 also filed a separate written statement and claimed that he purchased the plot in dispute from defendant No.5 vide registered sale deed 25.9.1987 for a consideration of Rs. 25,000/- and raised two rooms one drawing room, stair case, two bath rooms, and one kitchen and spent about Rs. 2 lacs and he is in possession of the plot.

On the basis of the pleadings of the parties, the trial court framed as many as 9 issues. However, issues No. 2, 3, and 8A were decided against the plaintiff except in respect to the plot measuring 55' x 30' purchased by the plaintiff from his father vide sale deed dated 13.12.1984. The trial Court decreed the suit of the plaintiff partly to the extent of plot measuring 55' x 30'. Regarding the other claim of the plaintiff over plot No. 5024, the trial court returned categorical finding that the sale deed dated 13.12.1984 is only with respect to the plot measuring 183 sq. yards comprising Khasra No. 1083 i.e. 55'x 30'. There is no mention of plot No. 5024 in the said sale deed and accordingly, the claim of the plaintiff appellant was refused. The trial court also returned the finding that defendant No.5 had acquired the disputed plot vide sale deed Ex. DW6/1 dated 28.1.1987 and similarly defendant No.6 purchased the said plot from defendant No.5 by the subsequent sale deed dated 25.9.1987. The property mentioned in the sale deeds dated 22.1.1987 and 25.9.1987 is different from the property in sale deed dated 13.12.1984. The suit of the plaintiff was accordingly, partly decreed vide judgment and decree dated 8.10.1999. The appeal preferred by the plaintiff in the Court of Addl. District Judge, (Fast Track Court), Gurgaon remained unsuccessful and came to be dismissed vide judgment and decree dated 20.8.2003.

Against the judgments and decree passed by the Courts below,

the appellant come to this Court in this Regular Second Appeal.

Learned counsel for the appellant has vehemently contended that the sale deed dated 13.12.1984 was in respect of Khasra No. 1083 and thus he is admittedly owner of the plot No. 5024, which is part of khasra No. 1083. It is the case of the appellant that he enclosed the property by boundary wall.

No evidence whatsoever is led by the plaintiff-appellant to establish that the property described in the sale deed dated 13.12.1984 includes the plot no. 5024. There is concurrent findings of fact recorded by the courts below that plot No. 5024 khasra No. 1083 is not part of the sale deed dated 13.12.1984. No substantial question of law arises in the present appeal.

For the reasons mentioned above, I do not find any merit in this appeal and the same is hereby dismissed with no order as to costs

31.3.2008  
mk

(PERMOD KOHLI)  
JUDGE