



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
Civil Appeal No. 3322 of 2015

BANI AMRIT KAUR

APPELLANT(S)

VERSUS

STATE OF HARYANA AND OTHERS

RESPONDENT(S)

J U D G M E N T

RAJESH BINDAL, J.

1. The successor-in-interest of the plaintiff is before this Court challenging the judgment and decree¹ of the High Court² in Second Appeal.³ Vide aforesaid judgment, the judgments and decrees of the courts below were reversed.

¹ Judgement and decree dated 08.10.2004

² Punjab and Haryana High Court at Chandigarh

³ Regular Second Appeal No. 1584 of 1980

2. The predecessor-in-interest of the appellant- Sukhjit Singh (deceased) filed a Suit⁴ challenging the first sale deed⁵, which was got registered by his father-Gurinder Singh (now deceased). The first sale deed was registered for the land measuring 166 kanals and 15 marlas in favour of Harjit Singh, who subsequently sold 118 kanals and 06 marlas to the State of Punjab (now falling in the State of Haryana), vide second registered sale deed⁶ for total consideration of ₹14,784/- . The balance land was transferred by Harjit Singh in favour of his mother, namely, Smt. Davinder Kaur. The possession of the land was delivered to the buyers.

3. Challenging the first sale deed, the predecessor-in-interest of the appellant filed a Civil Suit on 03.10.1972 on the plea that his father sold the land when he was minor without taking permission of the Court in terms of Section 8 of the Act.⁷ The same was not for need and welfare of the minor as nothing is stated therein. Harjit Singh, first buyer of the land from late-Gurinder Singh, did not contest the litigation as he had already transferred the land in favour of the State and his mother. The Trial Court⁸ decreed the suit. The first Appellate Court⁹ upheld the

⁴ Suit No. 345 of 1978

⁵ First sale deed dated 28.09.1956

⁶ Second sale deed dated 01.03.1958

⁷ The Hindu Minority and Guardianship Act, 1956

⁸ Sub Judge II Class, Karnal

⁹ Additional District Judge, Karnal

judgment and decree of the Trial Court, however the High Court in Second Appeal reversed the judgments and decrees of the courts below.

4. Learned counsel for the appellant submitted that the finding recorded by the High Court with reference to the date of birth of the appellant is erroneous and against the documentary evidence produced on record. Merely oral evidence has been relied upon which was just an estimation of age. He further referred to a certificate of Doon School showing the date of birth of late-Sukhjit Singh as 16.08.1951. If counted from that date, legal notice under Section 80 C.P.C. was issued by late-Sukhjit Singh to the State well before expiry of three years and the suit was filed within three years and two months from the date of attaining the age of majority by late-Sukhjit Singh. The same could not be dismissed as time barred. The High Court had gone beyond the pleaded case of the State. Once there was no permission from the Court to sell the property of the minor and the sale was not for the need and welfare of the minor, the same was rightly set aside by the Trial Court and the first Appellate Court.

5. On the other hand, learned counsel for the State submitted that from the facts of the case, it is evident that it is a dishonest litigation initiated with a view to extract more money from the State. There were

number of other sale deeds registered in the similar fashion as was done in the case of sale in favour of Harjit Singh from whom the State had purchased the same by way of second registered sale deed. The consideration as settled at that time was duly paid. Even if the date of birth of late-Sukhjit Singh is taken as 16.08.1951, still the suit filed by him was not maintainable as there is no document produced on record by late-Sukhjit Singh while filing the suit or in evidence that the property was ever registered in his name or had fallen to his share. It is merely a recital in the first sale-deed executed by Late Gurinder Singh in favour of Harjit Singh, where it is mentioned that the sale-deed is being registered as a guardian of Sukhjit Singh who was minor at that time.

6. He further submitted that it was a *bona fide* purchase by the State from Harjit Singh who was the recorded owner. In the revenue record, the land was shown in the name of late-Sukhjit Singh. In any case, it is the admitted fact by the appellant that late-Sukhjit Singh was studying in Doon School, Dehradun and the certificate of date of birth from that school has been produced on record. The sale consideration was ₹14,784/-, from which it can very well be taken that the land was sold for need and welfare of the child who was minor at that time and studying in Doon School. It was further argued that reliance is sought

to be placed on Section 56 of the Act but the fact remains that the Act came into force on 25.08.1956 and the first sale deed was registered on 28.09.1956. It was merely one month after the Act was enacted. Though there is no estoppel against the statute but still the fact remains that in those times, the people may not be even aware of the provisions of the new Act for making compliance thereof, especially the father of late-Sukhjit Singh, who executed the first sale deed on 28.09.1956. In case any such permission was required, it was his duty to have taken the same. The recital in the first sale deed executed by late-Gurinder Singh, may be for the reason that on account of agrarian response, the family having huge chunk of land, who claim themselves to be Jagirdars, wanted to sell the same from being declared surplus.

7. Heard learned counsel for the parties and perused the relevant referred record.

8. The predecessor-in-interest of the appellant- Sukhjit Singh (deceased) filed the civil suit challenging the first sale deed relying on the recital in the sale deed wherein Gurinder Singh mentioned that he is executing the sale on behalf of his minor son-Sukhjit Singh. Otherwise, there is no pleading or document produced on record by the plaintiff to show that the property in dispute was ever recorded in the name of late-Sukhjit Singh or it had fallen to his share ever as

Gurinder Singh was survived by three sons and two daughters. The first sale deed was got registered by him during his lifetime as he expired on 08.08.1968.

9. As far as the date of birth of late-Sukhjit Singh (now deceased) is concerned, though the High Court in its judgment has referred to oral evidence while dis-believing the documents placed on record by the predecessor-in-interest of the appellant, however, we may not subscribe to the material relied upon by the High Court to record that finding as the plaintiff had claimed his date of birth as 16.8.1951 and it had come only in his oral evidence that in the year 1968, he was about 18 years old. . The additional document in the form of a certificate from Doon School, Dehradun has been produced by the appellant before this court which shows that the date of birth of the plaintiff was 16.08.1951, as was claimed in the suit filed by Sukhjit Singh. If taken from that date, in our opinion, the suit as such may not be time-barred as it was filed after issuance of notice under Section 80 C.P.C. within a period of three years and two months from the date of registration of sale deed.

10. However, otherwise, we find the suit to be totally misconceived. There is no document placed on record by the plaintiff showing his right in the property as on the date when Gurinder Singh

(deceased) got the first sale deed registered in favour of deceased-Sukhjit Singh, who is trying to derive title only from the recital in the first sale deed that the property is being sold as a guardian of the minor. There is no pleading or document produced to show that the property in question was ever transferred in his name, in a family partition and the corresponding shares of other daughters and sons of late-Gurinder Singh. In the absence thereof, in our opinion, in a litigation of the type where a sale deed registered in 1956 was sought to be challenged after 16 years by the plaintiff may be to extract some more money from the State, which had purchased the same from the 1st purchaser.

11. Even otherwise, from the certificate produced by the plaintiff on record showing that he was studying in Doon School, Dehradun would clearly establish that the property may have been sold for need and welfare of the child to provide him best education. The consideration mentioned in the second sale deed was merely for ₹14,784/-.

12. The burden in such cases is heavy on the plaintiff who seeks to challenge the sale transaction entered into 16 years back.

13. The transaction in favour of the State may otherwise be protected in terms of Section 41 of the Transfer of Property Act, 1882 as

the stand taken before the court was that there was due diligence before the sale transaction was entered into and there is nothing on record produced by the plaintiff to dislodge the stand taken by the State.

14. To resolve the issue, this Court impressed upon the authorities to settle the issue. As transpired on the date of hearing, the State without prejudice to its rights had offered to pay ₹1,00,00,000/- more to the appellant, which was not acceptable to her as it was claimed that the present value of the property may be more than ₹15,00,00,000/-. She seems to be too greedy.

15. For the reasons mentioned above, may be for different reasons, we do not find that any case is made out for interference in the present appeal. The same is accordingly dismissed.

_____, J.
[VIKRAM NATH]

_____, J.
[RAJESH BINDAL]

NEW DELHI
NOVEMBER 30, 2023.