

owner if he had express or implied consent of the persons interested in immoveable property and such transfer shall not be held to be voidable on the ground that the transferor had no authority to make it provided that the transferee had taken due care and acted in good faith while ascertaining the power of the transferor to transfer the said property.

15. In this regard, it has been held in the case of **Amrik Singh (Supra)** that it is not suffice for the purchaser to inspect the revenue record but he is also suppose to enquire from the locality about the title of the vendor. It was observed that subsequent vendee is a resident of the same village and such transaction of sale are generally known to the inhabitants of the village. In this regard, reference has been made to the decision of the Supreme Court in the case of **“Dr. Govinddas and another Vs. Shrimati Shantibai and others” 1972 PLR 227.**

16. We have already noticed that the plaintiff Mohinder Singh is the son of Nihal Singh s/o Hira Singh and is related to Wazira Singh as his grand-son and as nephew to the heirs of Wazira Singh. If the land measuring 53 kanals 7 marlas was sold by Wazira Singh to Mohinder Singh, it cannot be believed that it was not within the knowledge of his heirs, who had sold the land of Mohinder Singh to subsequent vendees, who happened to be the resident of same village. In view thereof, we are of the considered opinion that the subsequent vendees cannot be allowed to take the plea of Section 41 of the 1882 Act and thus are not the *bona fide* purchasers.

17. Consequently, the appeal is hereby allowed and the judgment and decree of the Courts below are set aside.

18. Since, we have upheld the sale deed Ex.P1 dated 21.6.1965 in the regular second appeal, therefore, we do not find any merit in CWP No.1753 of 1986 in which order of the Consolidation Officer and the Director Consolidation has been challenged only on the ground of Section 30 of the Act which has already been referred by the First Appellate Court in the civil Suit. Hence, the writ petition is found to be without any merit and the same is hereby dismissed.

19. A photocopy of this order be placed on the file of connected case.

Appeal allowed.

PUNJAB AND HARYANA HIGH COURT

Before: Satish Kumar Mittal & T.P.S. Mann, JJ.

L.P.A. No. 802 of 2012 (O&M)

Decided on: 31.05.2012

Hardeva and another

Appellants

Versus

State of Haryana and others

Respondents

Present: Mr. Jasbir Singh, Advocate, for the appellants.

Punjab Land Revenue Act, 1887 (XVII of 1887), Section 116 – Mode of partition – Partition of land -- Mode of partition provides that the partition be made keeping in view the quality of land and the possession at the spot – Land abutting the road, which was in possession of the appellants,

has been equally divided among the cosharers -- Merely because the appellants were in possession of the said land, they cannot be given the entire land on the road, because as per the mode of partition, the partition was to be effected while taking into account the quality of the land also.

(Para 4)

JUDGMENT

SATISH KUMAR MITTAL, J. (ORAL) –

1. This Letters Patent Appeal has been directed against the order dated 24.4.2012 (Annexure P-5) passed by the learned Single Judge, whereby the writ petition (Civil Writ Petition No. 3976 of 2012) filed by the appellants, challenging the orders dated 15.1.2010 (Annexure P-6) and 20.10.2011 (Annexure P-7) passed by the revenue authorities, partitioning the land between the co-sharers, has been dismissed.

2. After hearing learned counsel for the appellants and going through the impugned order as well as the aforesaid orders passed by the revenue authorities, we do not find any illegality in the order passed by the learned Single Judge.

3. Learned counsel for the appellants only argued that the partition has been effected without caring the possession of the appellants on the land, and the land, which was in their possession, was given to the other co-sharers.

4. Undisputedly, in this case, clause 2 of the mode of partition, copy of which was annexed with the writ petition as Annexure P-10, provides that the partition be made keeping in view the quality of land and the possession at the spot. In this case, the land abutting the road, which was in possession of the appellants, has been equally divided among the cosharers. Merely because the appellants were in possession of the said land, they cannot be given the entire land on the road, because as per the mode of partition, the partition was to be effected while taking into account the quality of the land also. Thus, we do not find any force in the contention of learned counsel for the appellants that the appellants should have been given the land abutting the road on the basis of their possession. In our view, the learned Single Judge has rightly upheld the orders passed by the revenue authorities.

5. No merit. Dismissed.

Petition dismissed.

PUNJAB AND HARYANA HIGH COURT

Before: Jasbir Singh & Rameshwar Singh Malik, JJ.

CWP No.15550 of 2011

Decided on: 25.09.2012

The Government Employee Co-operative House Building
Society Limited

Petitioner

Versus

State of Haryana and others

Respondents