

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SPECIAL LEAVE PETITION (CIVIL) NO.5680 OF 2019

JYOTI & ANR.

Petitioners

VERSUS

DALBIR SINGH & ORS.

Respondents

O R D E R

The instant petition arises out of a suit for specific performance filed by the plaintiff in respect of Agreement dated 15.06.2005 pertaining to an extent of 42 acres (348 Kanals 3 Marlas) of agricultural land. The agreed consideration was Rs.70,000/- per acre aggregating to Rs.30,46,313/-. As on the date when the Agreement was entered into between the plaintiff and the defendants no.1 to 5, amount of Rs.4,00,000/- was paid by way of earnest to the defendants no.1 to 5 and the date for executing the sale deed was fixed as 15.12.2005. The Sale Deed could not be executed by 15.12.2005, for reasons which need not be gone into at this stage.

By three Sale Deeds executed on 12.01.2006 (bearing Vasika Nos.2945/1 and 2946/1) and 14.03.2006 (bearing Vasika No.3686/1), the defendants no.1 to 5 however sold the entire extent of land to the defendants no.6 and 7.

On 02.06.2006, the present suit seeking specific performance of the Agreement dated 15.06.2005 was filed. The Trial Court declined the relief of specific performance but granted the relief of refund of double the amount of the earnest money with interest @ 12 per cent per annum.

The matter was carried in appeal by the plaintiff as well as by the defendants no.1 to 5 in Civil Appeal Nos.241/2015 and 242/2015 respectively. Both the appeals were dismissed by the Appellate Court and the matters reached the High Court by way of two Regular Second Appeals, namely, RSA No.5436 of 2016 filed by the plaintiff and RSA No.1745 of 2016 filed by the defendants no.1 to 5.

The High Court allowed the appeal preferred by the plaintiff and dismissed the appeal preferred by the original defendants no.1 to 5.

The challenge in this Court is now at the instance of the defendants no.6 and 7.

It was found by the courts below that the Sale Deeds dated 12.01.2006 and dated 14.03.2006 in favour of the defendants no.6 and 7 were suspicious inasmuch as the consideration mentioned in said documents aggregated to Rs.19,60,000/- (Rs.4,90,000/-x2=Rs.9,80,000/-+Rs.9,80,000/-=Rs.19,60,000/-) as against the consideration in the Agreement dated 15.06.2005 being Rs.30,46,313/-.

But it is also a matter of record that the conveyance in favour of the defendants no.6 and 7 have not been invalidated by the Courts below though specific performance has been granted in favour of the plaintiff.

We heard learned counsel for the plaintiff, for the defendants no.1 to 5 and for the defendants no.6 and 7.

In the aforesaid circumstances, it was suggested to the parties if they could settle the matter on following terms:

- (i) The price which was agreed under the Agreement dated 15.06.2005 shall be taken as the governing price per acre;
- (ii) Since there are three claimants namely, (a) the plaintiff, (b) the defendants no.1 to 5, and, (c) the defendants no.6 and 7, these claimants shall take the lands equally;

- (iii) As the plaintiff would now get only $\frac{1}{3}^{\text{rd}}$ of the total extent of lands for which price agreed was Rs.30,46,313/-, on *pro rata* basis the plaintiff shall have to pay Rs.10,15,437/- for the extent of 14 acres of land, out of which Rs.4,00,000/- was paid as earnest to the defendants no.1 to 5;
- (iv) It appears that the plaintiff has already deposited Rs.22,46,313/- lakhs in the Trial Court. He shall, therefore, be entitled to withdraw the sum of Rs.16,30,876/- (Being the difference between Rs.22,46,319/- and Rs.6,15,437/- that he would now be required to pay towards the price of 14 acres of land);
- (v) The balance amount of Rs.6,15,437/- shall be made over to the defendants no.6 and 7 by the Trial Court;
- (vi) In addition, the defendants no.1 to 5 shall make over a sum of Rs.4,00,000/- to the defendants no.6 and 7; and
- (vii) Out of the holding of 42 acres, the defendants no.6 and 7 shall surrender 14 acres of land to the plaintiff and another parcel of 14 acres to the defendants no.1 to 5.

It is submitted on behalf of the defendants no.6 and 7 that in last few years, they have spent considerable amounts and made certain parts of the land in question completely irrigated. All the matters in that regard shall be gone into by the concerned Tehsildar who shall, after considering the rival submissions, partition the concerned land equitably amongst the aforesaid three claimants.

It was put to the learned counsel appearing for the parties whether these suggestions are agreeable and all the learned counsel have indicated in the affirmative.

We, therefore, direct the three parties to file their affidavits indicating their willingness and undertaking to abide by the aforesaid terms.

Requisite affidavits be filed within two weeks from today.

List this matter on 27.08.2019.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

NEW DELHI;
AUGUST 6, 2019

ITEM NO.17

COURT NO.8

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (C) No.5680/2019
 (Arising out of impugned final judgment and order dated 10-08-2018
 in RSA No.5436/2016 passed by the High Court Of Punjab & Haryana At
 Chandigarh)

JYOTI & ANR.

Petitioner(s)

VERSUS

DALBIR SINGH & ORS.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.23519/2019 - FOR EXEMPTION FROM
 FILING C/C OF THE IMPUGNED JUDGMENT; IA No.27176/2019 - FOR
 EXEMPTION FROM FILING O.T.; IA No.23522/2019-PERMISSION TO FILE
 ADDITIONAL DOCUMENTS/FACTS/ANNEXURES; IA No.27174/2019-PERMISSION
 TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES; IA No.73641/2019 -
 EXEMPTION FROM FILING O.T.; IA No. 101342/2019 - EXEMPTION FROM
 FILING O.T.; IA No. 101338/2019 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES)

Date : 06-08-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
 HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. P. V. Saravanaraja, AOR
 Mr. P. Veerappan, Adv.

=
 For Respondent(s) Mr. Sidharth Dave, Sr. Adv.
 Mr. Sunny Choudhary, AOR

Mr. Jasbir Singh Malik, Adv.
 Mr. Manish Kumr Tirthpuria, Adv.
 Ms. Usha Nandini. V, AOR

UPON hearing the counsel the Court made the following
 O R D E R

The Court issued certain directions, in terms of the signed
 order.

List this matter on 27.08.2019.

(MUKESH NASA)
 COURT MASTER

(SUMAN JAIN)
 BRANCH OFFICER