

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

Petition(s) for Special Leave to Appeal (Civil) No(s).12538/2009

(From the judgement and order(s) in SA No. 48/2004 dated
of The HIGH COURT OF UTTARAKHAND AT NAINITAL)

09.04.2008

ASHOK KUMAR

Petitioner(s)

VERSUS

DARSHAN SINGH & ORS.

Respondent(s)

Date: 19/08/2011

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s)

Dr. Vinod Kumar Tewari, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. B.N.P. Pathak, Adv. for
Mr. K.L. Janjani, Adv.

For Respondent(s)

Mr. Aditya Singh, Adv. for
Dr. (Mrs.) Vipin Gupta, Adv.UPON hearing counsel the Court made the following
O R D E R

This is a petition for setting aside judgment dated
9.4.2008 of the learned Single Judge of the Uttarakhand High
Court whereby he dismissed the second appeal preferred by the
petitioner against the judgment and decree passed by the lower
appellate Court reversing the decree passed by the trial Court
in favour of the petitioner in a suit for specific performance
of agreement for sale dated 26.8.1994.

We have heard learned counsel for the parties at length
and carefully perused the record.

The petitioner filed suit for specific performance by
alleging that Darshan Singh (respondent No.1 herein) had entered

into an agreement for sale of 0.400 hectares land in khasra No.243, 0.389 hectares land in khasra No.244/2 and 0.522 hectares land in khasra No.356/2 of village Juspur, Tehsil Laksar, District Haridwar for a sum of Rs.60,000/- and he had paid Rs.30,000/- as advance. The petitioner pleaded that he was always ready and willing to perform the agreement but respondent No.1 failed to get the sale deed executed.

Respondent No.1 did not contest the suit but Tejpal Singh and Smt. Raj Bala (respondent Nos.2 and 3 herein) controverted the allegations contained in the plaint and averred that respondent No.1 had not executed any agreement in favour of the petitioner. They also pleaded that respondent No.1 had sold the disputed land to them by registered sale deed dated 8.9.1994 and delivered possession to them.

On the pleadings of the parties, the trial Court framed as many as eight issues. After considering the evidence produced by the parties, the trial Court decreed the suit by recording a finding that respondent No.1 had executed the agreement for sale and the petitioner was always ready and willing to perform his
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part of the agreement. The trial Court also discarded the sale deed executed in favour of respondent Nos.2 and 3 by observing that the evidence produced by those respondents was not credible.

The lower appellate Court independently analyzed the pleadings of the parties and evidence produced by them and held that the sale deed executed in favour of respondent Nos.2 and 3 was valid and being bona fide purchasers without notice, they were entitled to retain the property. The learned Single Judge dismissed the second appeal preferred by the petitioner.

In our view, the finding recorded by the lower appellate Court that respondent Nos.2 and 3 were bona fide purchasers of the suit property was a pure finding of fact based on correct analysis of the pleadings and appreciation of the evidence produced by the parties and the High Court did not commit any

error by refusing to interfere with the said finding.

The special leave petition is accordingly dismissed.

(G.SUDHAKARA RAO)
Court Master

(PHOOLAN WATI ARORA)
Court Master