



CIVIL

Registered Sale Deed Confers Property Title

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A Division Bench of Hon'ble Supreme Court in a recent judgement^[1] held that a registered sale deed is final and conclusive document conveying the title of the property when executed with due compliance.

In above case, Defendants No.1 and No.2 sold the land in question to the Plaintiff, in accordance to the registered Sale Deed giving complete ownership of the land. However, upon Defendant No.2 causing disturbances to the Plaintiff's possession, dispute arose between parties wherein Defendant No. 2 questioned legitimacy of the Sale Deed stating the deed to be a sham document and not meant to be acted upon.

It was submitted that the sale Deed was executed without intention of transferring ownership and only as collateral financial security. The matter travelled from trial court to High courts and then to Apex Court. The question before Apex Court was whether the title is transferred through the sale deed, even if transfer of the same is not intended?

While answering the question, Apex Court referred to Section 54 of the Transfer of Property Act, 1882 (TOPA) along with Section 17 of the Indian Registration Act, 1908; which conclusively mandates for registration of sale deed of an immovable property for its enforcement.

In present case it was noted that, the execution and registration of Sale Deed was not in dispute however, the dispute was only for nature of the transaction. It was noted that registered Sale Deed having recitals for transfer of right, title and interest in favour of recipient along with recitals of sale considerations shall give a presumption of valid title. Therefore, it is entirely upon the Defendants to establish otherwise and to prove that it did not reflect the true nature of transaction.

Such registration along with consideration for sale, validates the transfer of property with all its rights and title that the owner possessed. However, Apex court further noted that the need to refer to the circumstances and the conduct giving rise to the deed must come only when the document passing title is ambiguous or indecisive. It further noted that when execution of Sale Deed is challenged then registration itself can not be held as proof of execution and compliance under section 67 of Evidence Act is necessary.

Conclusion

The Apex Court in this case, read provisions of TOPA along with the provisions of Registration Act and further emphasized that a Sale Deed, when registered and executed in due compliance, shall confer a valid and legitimate title to the receiver.

^[1]Damodhar Narayan Sawale (D) through LRs. Vs. Shri Tejrao Bajirao Mhaske&Ors
(2023 SCC Online SC 566)