

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.4599 of 2011 (O&M)

Date of Decision: January 19, 2015

Sukhdev Singh

...Appellant

Versus

Smt.Vijay Washishat

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Sarwan Singh, Senior Advocate with
Mr.N.S.Rapri, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

This is a Regular Second Appeal at the instance of the appellant-plaintiff against the judgments and decrees of both the Courts below, whereby the suit for declaration that he is owner in possession of the suit land measuring 478 sq.yards and 3 sq.ft. (398 sq.mtrs.) bearing Private Plot Nos.146, 147 and 149 as shown in the site plan and the sale deed dated 26.3.1981, alleged to have been registered in favour of the defendant, being based on forgery, fabrication and null & void and as well as for permanent injunction restraining the defendant from interfering in the possession over the suit property, has been dismissed.

Mr.Sarwan Singh, learned Senior Counsel appearing on behalf of the appellant-plaintiff contends that both the Courts below have committed an illegality and perversity in dismissing the suit, i.e., on merits

and as well as on the limitation.

Learned Senior Counsel for the appellant-plaintiff, in support of his submission, submits that the sale deed was got executed by the respondent-defendant through impersonation as the name of the father of the appellant-plaintiff was Wadhawa Singh, whereas in the sale deed, it had been mentioned as Partap Singh.

Learned Senior Counsel for the appellant-plaintiff has further argued that both the Courts below ought not to have dismissed the suit of the appellant-plaintiff being barred by limitation, as suit was filed in consonance with provisions of Article 58 of the Limitation Act, i.e., within three years from the day when the right to sue accrued i.e. when the possession of the appellant-plaintiff was threatened by the respondent-defendant. In support of his submission, learned counsel has relied upon the judgment of this Court in **Gurcharan Ram Versus Tejwant Singh (Dead) through L.Rs and another**, Vol.CL (2008-2) PLR 714.

Both the Courts below have examined the evidence brought on record and dismissed the suit and appeal filed against the judgment and decree of the trial Court.

As far as the first contention of the learned Senior Counsel for the appellant-plaintiff is concerned, the same is devoid of any merit. In the endorsement of the sale deed dated 26.3.1981 (Ex.D1), the name of the father of the appellant-plaintiff was correctly mentioned as Wadhawa Singh. The aforementioned endorsement is reflected in the sale deed (Ex.PW4/1) brought on record at the instance of the appellant-plaintiff and, therefore, both the endorsements corroborate the endorsement (Ex.D2). The appellant-

plaintiff is stated to have taken the benefit of filing the suit on the basis of some clerical mistake as name of his father was Partap Singh instead of Wadhawa Singh.

It is a matter of record that the appellant-plaintiff had, through various sale deeds, i.e., Ex.D3, Ex.D5 and Ex.D7, had sold the land to various vendees, namely, Shashi Kant, Padma Rani and Nishi in the year 1981 and the aforementioned sale deeds have not been challenged. The sale deed in the present suit is also of the year 1981. Even the original sale deed had not been brought on record by the appellant-plaintiff.

As regards the suit having been barred by limitation, the contention of the learned Senior Counsel for the appellant-plaintiff pales insignificance in view of the fact that the appellant-plaintiff had already sold the entire land through various sale deeds as mentioned above. Therefore, he could not be said to be in possession of the suit property. No evidence has been led to the effect that the appellant-plaintiff had been in possession of the suit property. The ratio decidendi as laid down in **Gurcharan Ram's case** (supra) cannot come to the aid of the appellant-plaintiff. Both the Courts below have rendered a finding of fact and law, based on the appreciation of oral and documentary evidence. No substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

January 19, 2015
ramesh

(AMIT RAWAL)
JUDGE