

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**RSA No. 914 of 2011 (O&M)
Date of decision : 23.02.2015**

Mela Ram

.....Appellant

Versus

Kartar Kaur

...Respondent

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the 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: Ms. Deepali Puri, Advocate
for the appellant**

ANITA CHAUDHRY, J.

This is the defendant's second appeal aggrieved by the judgments passed by both the Courts below. Kartar Kaur filed a suit in November 1977 seeking restraint of defendants from interfering in ½ bigha of land owned by her which was sold to her husband vide sale deed dated 01.07.1959 by defendant No. 2 for a sum of ₹ 99/-. She had claimed that after death of her husband she became the owner and was in possession. Her claim was denied by the defendants and it was maintained that the suit property had been sold to defendant No. 1 vide sale deed dated 21.07.1976 by defendant No. 2. The suit was decreed and the appeal filed by defendant was dismissed.

The issue that was examined by the Courts below was

whether defendant No. 2 had sold the share to Jagat Singh or it had been sold to Mela Ram- defendant No. 1. Both the sides produced sale deeds in their favour. The plaintiff had relied upon sale deed Ex. P3 dated 01.07.1959, which was unregistered sale deed. The defendants had produced the sale deed dated 21.07.1976 Ex. D7. The issue was as to which sale transaction would take precedence in view of the observations made in ***Gurmej Singh vs. Makhan Singh and others, 1986(2) PLR 449***. It was held that subsequent transaction was subject to prior transaction and would take precedence. The argument made by the defendants that the first sale deed was not registered was rejected as the sale consideration was below ₹ 100/- and was not compulsorily registrable.

Mehar Chand had denied his thumb impression on the sale deed but failed to examine the handwriting expert. The trial Court relied upon the statement given by the attesting witness and the scribe. The execution of the sale deed had been proved by the plaintiff.

It is settled proposition of law that one can not pass on a title which does not vest in him. Mehar Chand was left with no right in the property as he had sold it to Jagat Ram. After the death of Jagat Ram, the plaintiff became the owner. The vendor could not have sold the property again as he had previously created right in Jagat Singh.

Both the Courts had rightly recorded a finding in favour of the plaintiff which are neither illegal nor suffer from any perversity and are confirmed.

No substantial question of law arises. The appeal is dismissed with costs.

23.02.2015
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(ANITA CHAUDHRY)
JUDGE