

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**RSA No.2251 of 2013 (O&M)**

**Date of decision: 25.08.2015**

Jit Singh

... Appellant

Vs.

Prithipal Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

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

Present:- Mr. O.P.Hoshiarpuri, Advocate, for the appellant.

Mr. B.D.Sharma, Advocate, for respondent No.1.

**AMIT RAWAL J. (Oral)**

Challenge in the present appeal is to the concurrent finding of both the Courts below, whereby, the suit for declaration to the effect that the property, i.e, House bearing No.NG-78, Kot Baba Deep Singh, Jalandhar was ancestral property of the plaintiff - appellant having been given in lieu of the claim and the alleged sale deed dated 30.07.2004 executed by Maghar Singh in favour of defendant/respondent No.1 being null and void, result of fraud and collusion, along with consequential relief of permanent injunction, has been dismissed.

Mr. O.P.Hoshiarpuri, learned counsel for the appellant-plaintiff submits that the property at the hands of Maghar Singh was ancestral and therefore, he could not have alienated the property in the manner, as has been done so. The appellant-plaintiff being son of Maghar Singh has a right in the property by birth, therefore, Maghar Singh could not have executed the sale deed in respect of the ancestral property, being, coparcenary property. He further submits that both the Courts below have committed illegality and perversity in not noticing the fact that the sale deed for consideration was in favour of none else but brother-in-law of one of the brothers. The Courts below have not noticed the evidence of defendant No.1, wherein, it has surfaced that he had no sufficient funds to purchase the property as he was doing the job of 'Granthi'. Therefore, defendants could not prove the payment of ₹5,20,000/- being sale consideration and thus, appeal involves the substantial questions of law to be determined by this Court.

Mr. B.D.Sharma, learned counsel appearing on behalf of respondent No.1 submits that plaintiffs have to stand on their own legs and not to rely upon the defence and weak wicket of the defendants. Both the Courts below, have concurrently found, that appellant-plaintiffs have failed to prove the nature and character of the property being ancestral. There is no illegality and perversity in the impugned judgments of the Courts below and no interference is warranted under Section 100 of the CPC.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of both the Courts below.

The foremost question is to be determined as to whether both the Courts below have committed any illegality or perversity or not and this Court is to see whether the property at the hands of Maghar Singh is ancestral. In case, the property at the hands of Maghar Singh would be ancestral, it has come from three generations, in view of para No.223 of Mulla.

No evidence has been brought on record to prove the nature and character of the property being ancestral at the hands of Maghar Singh, father of appellant-plaintiff. There is another aspect that plaintiff, had admitted that he has sufficient funds to purchase the property. No revenue record and excerpt has proved that the property in dispute was/is ancestral. DW2- Mangal Singh, in cross examination admitted that at the time of registration, money was exchanged in his presence. No evidence to the contrary has been proved or led.

In view of the aforementioned facts and circumstances of the present case, there is no infirmity, illegality and perversity in the impugned judgments and decrees of the Courts below, much less, no substantial question of law, arises to be adjudicated by this Court.

Both the Courts below have rendered a finding of fact and law based on the appreciation of oral and documentary evidence.

There is no merit in the present appeal.

Accordingly, the same is dismissed.

**(AMIT RAWAL)**  
**JUDGE**

**August 25, 2015**  
savita