

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

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**RSA No.3053 of 2013 (O & M)
Date of Decision:05.11.2015**

Virender Kumar @ Virender Singh and othersappellants

Versus

Ranbir Singh and othersrespondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Deepak Sharma, Advocate
for the appellants

ARUN PALLI, J.(ORAL):-

Suit filed by the plaintiffs was dismissed by the trial Court vide judgement and decree dated 03.02.2011. As even the appeal preferred against the said decree failed, and, was dismissed on 15.03.2013, plaintiffs are before this Court, in this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

Plaintiffs prayed for a declaration that the sale deed dated 08.01.1990, executed by defendant No.3 i.e.their father, in favour of defendant No.1, as also the sale deed dated 26.04.1990, executed by defendant No.1, in favour of defendant No.2, were wholly illegal and void, based on fraud and misrepresentation as also without any legal necessity and consideration. It was maintained that defendant No.1 happened to be the uncle of the plaintiffs and

defendant No.2 was his son. The suit land was a joint Hindu family and a coparcenary property in the hands of their father i.e. defendant No.3. Thus, defendant No.3 had no right to alienate the same, particularly, without any legal necessity.

In the written statement filed by defendants No.1 and 2, it was pleaded, inter alia, that the suit was barred by time. The allegations that defendants No.1 and 2 had misrepresented or played fraud upon defendant No.3 to get the sale deed dated 08.01.1990, executed in favour of defendant No.1, were wholly misconceived and thus, denied. In fact, plaintiffs had made false allegations against their own father to grab the suit land.

In a separate written statement filed by defendant No.3, he conceded the claim of the plaintiffs and prayed for decretal of the suit.

On a due and comprehensive consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that plaintiffs had failed to lead any evidence to show that defendants No.1 and 2 had indeed misrepresented or played fraud upon defendant No.3 to have sale deed dated 08.01.1990 executed in favour of defendant No.1. In fact, father of the plaintiffs i.e. defendant No.3, was still alive and filed the written statement but never chose to appear in the witness box to support the claim of the plaintiffs. Nothing was brought on record, least any cogent or credible evidence, to prove that the suit property was indeed ancestral and coparcenary in nature. The bare recitals of the sale deed dated 08.01.1990 (Ex.P1) revealed that the same was executed

for a consideration. Defendants had also examined Sushil Kumar Singla (DW1) deed writer, who also proved execution of the sale deed dated 08.01.1990. He also testified that the sale deed dated 08.01.1990 was executed for a valuable sale consideration. The fact that defendant No.3 had conceded the claim of the plaintiffs, in the written statement filed by him, showed that the suit was filed by the plaintiffs in collusion with their father. Further, plaintiffs have assailed the sale deed dated 08.01.1990 as also the sale deed dated 26.04.1990 executed by defendant No.1 in favour of defendant No.2 after over 10 years as the suit was instituted on 30.08.2000. No credible evidence was brought on record to show that they had indeed acquired knowledge as regards alienation of the suit property by their father at the time of institution of the suit. In short, plaintiffs had sought to assail the sale deed executed by their father Randhir Singh (defendant No.3), for the suit property was claimed to be ancestral and coparcenary. But once, the plaintiffs failed to lead any evidence to prove that the suit land was indeed ancestral and coparcenary in nature, plaintiffs had no locus to question the alienation thereof by their father in favour of defendant No.1. Concededly, defendant No.3 was recorded to be the owner of the suit land in the record of rights and being an absolute owner, he had every right to alienate the said property. Defendant No.3 was alive at the time of institution of the suit and, even thereafter, he never questioned the validity or veracity of the said sale deeds. Apparently, he conceded the claim of the plaintiffs, who happened to be his sons and, thus, it was obvious that the suit was filed by the plaintiffs, in

connivance with their father.

Learned counsel for the appellants could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

05.11.2015

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(ARUN PALLI)
JUDGE