

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

VARINDER SINGH
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Punjab & Haryana High Court at
Chandigarh

RSA No. 3145 of 2013 (O&M)

Date of decision : 9.7.2015

Amandeep Singh

.. Appellant

versus

Gurcharan Singh and another

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S. K. Jain, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff has impugned the judgments and decrees of both the Courts below whereby the suit filed by him for declaration was dismissed.

The plaintiff challenged the sale-deed dated 27.9.2005 executed by respondent no. 1 - his father on the plea of property being ancestral and there was no legal necessity. Both the Courts below dismissed the claim made by the appellant opining that on the basis of evidence produced by the appellant, it could not be opined that property in dispute was ancestral. Besides this, it was opined that the suit was filed merely for declaration. Admittedly, the appellant was not in possession of the suit property. No relief for possession was sought. In the absence thereof, the suit filed merely for declaration was not maintainable.

Learned counsel for the appellant had not been able to refer to any evidence produced by the appellant, which has either been misread or not considered on the issue regarding property being ancestral. Hence, the findings to that effect cannot be said to be perverse.

The legal position with regard to maintainability of the suit merely for declaration without claiming the relief of possession when the appellant is admittedly not in possession of the property also could not be disputed. In the case in hand, the appellant had merely claimed the relief of declaration and not possession, though he admitted that he is not in possession of the property.

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For the reasons mentioned above, I do not find any merit in the present appeal. No question of law much less a substantial question of law arises in the appeal. The same is accordingly dismissed.

9.7.2015
vs

(Rajesh Bindal)
Judge