

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 4510 of 2013(O&M)
Date of decision :February 6 , 2015

Jaspreet Singh

..... Appellant

Versus

Balbir Singh and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K. S. Chahal, Advocate
for the appellant.

Mr. Raman Mohinder Sharma, Advocate
for respondent Nos. 1 to 3.

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?

Amit Rawal, J (Oral)

This Regular Second Appeal at the instance of the appellant-plaintiff is directed against the judgment and decree of the trial court dated 4.8.2010 whereby the suit for declaration and permanent injunction qua 1/3rd share in the electric motor bearing account No.124/KT existing in khasra No.3909/2082 and 282/KT existing in Khasra No.1562 of 10 BHP each, situated in revenue estate of Village Ferozepur Kuthala has been dismissed and the appeal filed against the same has also been dismissed.

Mr. K. S. Chahal, learned counsel appearing on behalf of the appellant-plaintiff in support of grounds of appeal

submits that both the courts below have committed illegality and perversity in dismissing the suit as there has been apparent misreading of Jamabandi Ex.P-15 for the year 2003-04 wherein the land has been shown to be jointly owned by all the siblings/children of Ghumand Singh and the jamabandi also reflects installation of motor. He further submits that in since the jamabandi reflects the joint holding of the property therefore the appellant-plaintiff has 1/3rd share in the motor mentioned above.

Mr. Raman Mohinder Sharma, learned counsel appearing on behalf of respondent-defendants Nos.1 to 3 in support of his contentions submit that the suit of the appellant-plaintiff exfacie was not maintainable in as much as that the appellant-plaintiff has not challenged the sale deed dated 31.1.2006 Ex.D-2 which has been executed by defendant No.1 Ghumand Singh in respect of land measuring 56 bighas 4 biswas and the said sale deed was also in respect of two electric motor i.e.which has been subject matter of adjudication in the suit filed by the appellant-plaintiff. He further submits that the appellant-plaintiff has also been given his share by two sale deed dated 31.1.2006 Ex. D-2 and Ex.D-3 whereby the land measuring 9 bighas and 13 biswas and 16 biswas and 6 bighas have been sold/transferred in favour of the appellant-plaintiff.He further submits that preceding to the aforementioned sale deed a compromise dated 20.1.2006 was also entered into between the parties to the *lis* which bore signatures of the appellant-plaintiff. As per the said compromise land measuring 16 biswas and some cash was also given to the appellant-plaintiff. He further submits that the

appellant-plaintiff has appeared in the witness box and also admitted the factum of sale deed dated 31.1.2006 Ex. D-2 which contained sale of electric motor. He further submits that both the courts below have rendered a finding of fact and law and there is no illegality and perversity in the finding. Therefore, there arises no substantial question of law for adjudication by this Court.

I have heard learned counsel for the parties, appraised the impugned judgments and decrees of both the courts below and is of the view that the appeal is liable to be dismissed for the following reasons.

Ex. P-15 Jamabandi for the year 2003-04 is preceding to the compromise dated 20.1.2006 and as well as sale deed executed in favour of the appellant-plaintiff Ex.D-2, Ex.D-3 and Ex.D-4. It has unequivocally been admitted in the cross-examination about the execution of the sale deed dated 31.1.2006 and Ex. D-2 which is also of electric motor. The appellant-plaintiff has not challenged the aforementioned sale deed, in as much as compromise.

It is a settled law that any document which is registered can be challenged within a period of three years. There is no challenge to the aforementioned sale deed, therefore the suit of the appellant-plaintiff claiming declaration and injunction on the basis of jamabandi for the year 2003-04 was exfacie not maintainable, much less liable to be dismissed.

The appellant-plaintiff has concealed the factum of sale deed, much less compromise in the plaint. It is also a settled

law that the appellant-plaintiff who does not come to court with clean hands can be thrown out of court at any stage.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 6 , 2015
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