

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

RSA No.1129 of 2015 (O&M)

Date of Decision: September 29, 2015

Parveen Kumar

.... Appellant

vs.

Assa Ram and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Kulbhushan Raheja, Advocate for the appellant.

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

CM-3286-C-2015

There is delay of 126 days in refiling the present appeal.

For the reasons mentioned in the application supported by affidavit, delay of 126 days in refiling the present appeal is condoned, subject to all just exception.

Application stands disposed of.

RSA No.1129 of 2015

Impugned in the present regular second appeal is the judgment and decree dated 02.07.2013 passed by learned Addl. District Judge, Fazilka, affirming the judgment and decree dated 03.09.2012 passed by learned Civil Judge (Jr. Divn.), Abohar, vide which the suit of the plaintiff was dismissed.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

The plaintiff had challenged the registered sale deed dated 26.04.1982 suffered by his father Shiv Kumar-defendant No.2 in favour of defendant No.1 Assa Ram. It is stated that his father Shiv Kumar-defendant No.2 was having 8/126th share of land measuring 19 kanals 11 marlas. However, he has transferred 40 kanals of land to defendant No.1, who was tenant of the said land.

The plaintiff claims that he being the son of defendant No.1 is a coparcener and is having pre-existing rights. The pleadings of the plaintiff shows that the suit is based upon the pre-existing rights as coparcener and claims that the suit property is ancestral.

The sale deed is challenged on the ground that the same was executed by defendant No.2 (father of the plaintiff), which is without legal necessity. However, no such ground has been claimed in the plaint. However, the plaintiff had himself pleaded that defendant No.2 was owner only to the extent of 19 kanals 11 marlas. So far as the claim is concerned, only co-sharer can challenge the sale deed on the ground that transfer is beyond share. The plaintiff is not co-sharer in the suit property. The findings of the facts have been recorded by both the courts below. No substantial question of law arises in the present appeal.

Hence, the present regular second appeal stands dismissed.

(KULDIP SINGH)
JUDGE

September 29, 2015
sarita