

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

RSA No.4910 of 2013 (O&M)

Date of decision : 23.07.2015

Ramesh Chand & others

...Appellants

versus

Rati Ram & another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.P. Sharma, Advocate for the appellants.

RITU BAHRI, J (Oral)

The appellants/plaintiffs have come up in regular second appeal against the judgments of the trial Court dated 07.12.2010 and the lower appellate Court dated 16.11.2012, whereby their suit for declaration that the sale deed executed on 03.07.2002 whereby their father i.e. defendant No.2-Ramji Lal sell the land to defendant No.1-Rati Ram of the coparcenary property was without any legal necessity, has been dismissed by both the Courts below.

The stand of the defendants before the trial Court was that defendant No.2 had taken a loan from Oriental Bank of Commerce by mortgaging his land measuring 40 kanals 6 marlas in the year 1987 and the payment of loan was not made by him. The bank had obtained a preliminary decree for an amount of Rs.1,29,000/-. For execution of the decree, land measuring 40 kanals 6 marlas was to be sold in auction so defendant No.2 in order to save his land sold out 10 kanals 2 marlas

of land to pay back the loan of the bank. Hence there was a legal necessity available with defendant No.2 to sell the land in question to defendant No.1. Ex.D2 is the copy of the judgment and Ex.D3 is copy of the decree which was passed in favour of the Oriental Bank of Commerce. Both the Courts have held that the sale deed Ex.D1 which was executed by defendant No.2 was for a legal necessity. The decrees passed in favour of the Oriental Bank of Commerce have been admitted by the plaintiffs when they appeared in the witness box and the suit was dismissed. Keeping in view that the plaintiffs have not disputed the decrees and auction proceedings initiated against their father defendant No.2, there is no substantial question of law arises for adjudication in this appeal.

Dismissed.

23.07.2015
Vinay

(RITU BAHRI)
JUDGE