

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 1614 of 2015 (O/M)
Date of decision : 30.11.2015

Manoj

..... Appellant

Versus

M/s Alora Sapan Pipes Private Limited and another.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Kotla, Advocate, for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 16.12.2014, passed by the learned Additional District Judge, Jhajjar, affirming the judgment and decree dated 31.1.2012, passed by the learned Additional Civil Judge (Senior Division), Bahadurgarh, vide which the suit of the plaintiff for declaration and possession, was dismissed.

Briefly stated, plaintiff Manoj (minor) had filed a suit on 25.4.2005, challenging the sale deed dated 21.4.1994, executed by his father Mahender Singh (defendant No. 2), regarding suit land

RSA No. 1614 of 2015 (O/M)

-2-

measuring 7 kanals 8 marlas, situated within the revenue estate of village Sankhol in favour of defendant No. 1-firm for Rs. 1,95,000/-. The plaintiff had claimed that the suit land was ancestral and his father was a man of bad habits. Therefore, the sale is without any legal necessity.

Needless to say that defendant No. 2 did not appear before the lower Court to contest the suit. Defendant No. 1 contested the said suit on the ground that the plaintiff is not the son of Mahender Singh and that the suit property was not ancestral. Further plea was taken that even if the land is proved to be ancestral, the sale was for legal necessity as defendant No. 2 had to pay the debt obtained by him from Primary Land Mortgage Bank for installation of tubewell and he also needed money for education, marriages and day-to-day expenses of the family and for the construction of house and the land in question was not yielding reasonable income. Both the Courts below found that Mahender Singh had succeeded to the property on the basis of decree dated 20.11.1990. Therefore, same cannot be treated as ancestral. Further, even the alienation of the said property is not proved to be for immoral purposes. Therefore, the sale was held to be valid.

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

RSA No. 1614 of 2015 (O/M)

-3-

Admittedly, the land had come to the share of Mahender Singh (defendant No.2) by way of decree suffered by his father on 20.11.1990. The plaintiff claims that he was minor when the sale was made. However, even at the time of filing the suit, he was minor and he filed the suit through his mother. The sale was challenged after 11 years. It appears that since the value of the land must have certainly increased manifold after year 1994 till year 2005, therefore, the plaintiff wants to get back the land. His father (defendant No. 2), who was alleged in the plaint to be a drunkard, gambler and used to remain in the company of loose ladies, did not appear before the lower Court to contest the said allegations. Therefore, there is apparent collusion between defendant No. 2 and plaintiff. The concurrent findings of facts have been recorded by both the Courts below. No substantial question of law arises in the present regular second appeal. Hence, the present regular second appeal is dismissed.

(KULDIP SINGH)
JUDGE

30.11.2015
sjks