

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

**Regular Second Appeal No.2004 of 2015 (O&M)
Date of Decision: September 24, 2015.**

Sushila and another

.....APPELLANT(s).

VERSUS

Dinesh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashwani Talwar, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Heard.

This is appeal against the concurrent judgments of the Courts below dismissing the suit filed by appellants-plaintiffs seeking declaration that the sale deed dated 12.02.1999 executed by Raj Krishan, husband of appellant No.1 and father of appellant No.2 in favour of Dinesh, respondent-defendant was illegal, null and void on two counts; firstly, that the land measuring 22 kanals 5 marlas sold vide sale deed dated 12.02.1999 was joint Hindu family ancestral property and secondly, there was charge on the suit land for the maintenance allowed to Sushila wife of Raj Kishan and his son.

Both the Courts on the point of second plea about the charge on the suit land, held that there was no maintenance order against Raj Krishan and Smt. Sushila was getting pension from the Government authorities after

the death of Raj Krishan.

On the plea of appellants-plaintiffs that the suit land was ancestral in nature, it was observed by Additional Civil Judge (Senior Division), Narwana in para 8 of the judgments as follows:-

“18. In so far as the ancestral nature of the property is concerned, there is finding of the Civil Court in the judgment dated 12.05.2011 (Ex.D5) in a suit filed by plaintiff Sushila against the kin of her husband, all children of Gorkha, father-in-law of plaintiff no.1, on the same grounds per judgment (Ex.D5). The relevant portion of para no.14 is reproduced hereinafter as below:-

It is a conceded fact that Gorkha had four sons namely, Balbir (defendant no.3), Raghbir (defendant no.4), Rajinder (defendant no.5) and Raj Krishan, the deceased husband of the plaintiff. As per the defendants, deceased Gorkha during his lifetime had partitioned the property between his four sons and himself to the extent of their shares in the year 1985. This particular fact receives corroboration from the excerpt Ex.P2 which reflects that in the jamabandi for the year 1986-87 all the four sons of Gorkha were in possession of their respective shares. This fact that property was partitioned among the coparceners during the lifetime of Gorkha and Raj Krishan also receives corroboration from the sale deed no.783 dated 12.02.1999 allegedly executed by husband of the plaintiff, namely, Raj Krishan in favour of Dinesh. This particular fact is again admitted by the plaintiff in her own averments. All this evidence clearly goes to reveal that the property in the hands

of Gorkha was ancestral property which was partitioned among the coparcenars in the year 1985.”

The appellants-plaintiffs have not been able to produce on record any evidence to the contrary to rebut the above conclusion arrived at by the Courts below.

No question of law what to talk of substantial question of law arises for determination in this appeal, which has no merits.

Dismissed.

September 24, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE