

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

125

**RSA No.2994 of 2015(O & M)
Date of Decision:16.10.2015**

Brijesh

....appellant

Versus

Poonam and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.Ashwani Gaur, Advocate
for the appellant

ARUN PALLI, J.(ORAL):-

Suit filed by the plaintiff was dismissed by the trial Court vide judgement and decree dated 27.05.2014. As even the appeal preferred against the said decree failed, and, was dismissed vide judgement dated 03.03.2015, the plaintiff is before this Court, vide this Regular Second Appeal. Parties to the lis, hereinafter, would be referred to by their original positions in the suit.

Briefly, in a suit filed by the plaintiff, he prayed for a declaration that the sale deed dated 27.07.2009, executed by his father-defendant No.2, in favour of defendant No.1, as regards the suit property was wholly illegal and null and void. It was maintained that the suit land was ancestral and coparcenary in nature in the hands of defendant No.2 and, thus, the plaintiff had a right therein by

birth. As the suit property was alienated by defendant No.2, without any legal necessity, the sale in favour of defendant No.1 was hardly of any consequence. As the defendants refused to acknowledge the claim of the plaintiff, thus the suit.

In a separate written statement filed by defendant No.1, it was pleaded, inter alia, that she was the bona fide purchaser for consideration. Further, the suit property was a self acquired property of defendant No.2, thus he was competent to alienate the same. Therefore, the proviso to Section 22 of the Hindu Succession Act, 2005, had no bearing.

Likewise, even defendant No.2 maintained that the suit property was his self acquired property.

On a due and comprehensive consideration of the matter in issue and the evidence on record, the Courts below concurrently concluded that it was not disputed that defendant No.2-Sahi Ram was the owner in possession of the suit land till the execution of the sale deed dated 27.07.2009 (Ex.D6). Evidence on record prove that the suit land was purchased by defendant No.2, vide sale deed dated 08.11.1989 (Ex.D5). Concededly, the onus to prove that the suit property was indeed ancestral and coparcenary in nature, was upon the plaintiff himself. But nothing was brought on record, least any cogent or credible evidence to substantiate the said plea. Thus, plaintiff failed to prove his claim.

Learned counsel for the appellant could not point out as to how the findings that were concurrently recorded by both the Courts were either contrary to the position on record or suffered from

any material illegality. No other argument was advanced.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law to interfere with the decree being assailed in the present appeal. No question of law, much less any substantial question of law, arises for consideration in the present appeal. The same being devoid of merit is accordingly, dismissed.

16.10.2015

neenu

(ARUN PALLI)
JUDGE