

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3558 of 2015
Date of decision : December 3, 2015

Kanwaljit Singh Aulakh

..... Appellant

Versus

Sukhdev Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gagandeep Singh, Advocate
for the appellant.

1. Whether reporters of local papers 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?

Amit Rawal, J (oral).

The appellant-plaintiff is in Regular Second Appeal against the concurrent finding of fact whereby the suit for declaration seeking that they are owners of the property measuring 37 Kanals 10 Marlas situated in Village Guntala Tehsil and District Amritsar, Khasra Nos. 6//2/2(2-15), 3/2(2-15), 8-(8-0), 9(8-0), 12 (8-0), 19 (8-0) as the same has been inherited by them, from their mother, after her death.

Learned counsel for the appellant submits that the suit land was given to the respondents-defendants for cultivation and defendants have been paying ½ share of the crop to the plaintiffs. They have been in cultivating possession for the last 6/7 years. However, in the year 1994 the respondents-defendants stopped making payment of their share which created doubts in the mind of

the plaintiff and when they approached the Revenue Patwari for copy of jamabandi it was revealed that the name of the plaintiffs has been missing and the defendants on the basis of some forged and fabricated documents got the ownership changed in their own name as plaintiffs never sold the land nor executed any such document in favour of the defendants.

He further submits that the suit was contested by the defendants on the ground that both Kanwaljit Singh and Baldev Singh had sold the land measuring 37 Kanals 10 Marlas vide sale deed dated 11.11.1988 for a total sale consideration of ₹80,000/- which was duly registered at Delhi and since the defendants are in possession of the property vide mutation Nos. 5246 and 5247. Both the courts below have dismissed the suit on the ground that appellants-plaintiffs have not been able to get the signatures compared from the sale deed.

He further submits that the sale deeds were not signed by them, they have been executed only by Baldev Singh for a sale consideration but not on behalf of other co-owners and therefore the signatures of other co-owners is an act of impersonation and Kanwaljit Singh and Baldev Singh had given their specimen signatures in Court on 15.3.2002. Thus, both the courts below have not noticed the report of the hand writing expert and erroneously and perversely dismissed the suit.

I have heard learned counsel for the appellant and appraised the paper book.

It is a matter of record that only Kanwaljit Singh-

plaintiff was signatory of the sale deed stepped into the witness box whereas Baldev Singh after giving specific signatures did not appear. Even the plaintiff after giving signatures in the court did not compare the same from the hand writing expert. The hand writing expert in the cross examination stated that he was not asked to examine signatures relating to Baldev Singh. Thus, plaintiff did not get the signatures of Baldev Singh compared from the hand writing expert. The suit aforementioned was filed in January, 1995. The court below found that the plaintiff had knowledge of the sale deeds. It is only an act of greed that they had chosen to file the suit. The copy of jamabandi for the year 1989-90 Ex.P-8 stands in the name of father of plaintiffs. Mutation was sanctioned in their favour. Thus, in the examination of Baldev Singh it was found that Baldev Singh executed the sale deed for himself as well as on behalf of his brother Kanwaljit Singh leads to an irresistible conclusion that the sale deeds in question were executed and they were aware of this fact.

The lower appellate court, in my view, has rightly held that the suit was barred by law of limitation. DW-3 Kamal Kumar the attesting witness of the sale deed deposed in Court that he knew the parties and in his presence Baldev Singh himself and as attorney of Kuldeep Singh and one Kanwaljit Singh executed sale deeds in favour of defendants. He also stated that Baldev Singh was having original power of attorney with him at that time and the contents of the sale deed were read over to Baldev Singh. In his cross examination he stated that he knew Kuldeep Singh for last 20 years and the sale deeds have been registered in old Delhi.

In view of what has been observed above, I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgment and decree of the appellate court.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

December 3, 2015
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