

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 396 of 2015(O&M)
Date of decision :February 12, 2015

Joga Singh

..... Appellant

Versus

Karnail Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Harish Goyal, Advocate
for the respondents.

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).

This Regular Second Appeal at the instance of the appellant-plaintiff is directed against the judgment and decree of the trial court whereby the suit of the appellant-plaintiff challenging the decree dated 10.2.2006 passed in civil suit No.447 of 2000 has been dismissed and the appeal filed against the judgment and decree of the trial court has also been dismissed.

Learned counsel appearing on behalf of the appellant-plaintiff in support of his grounds of appeal submits that both the courts below have committed illegality and perversity in

dismissing the suit as well as appeal as in the proceedings held in civil suit No. 447 of 2000, no notice was given to the appellant as the appellant-plaintiff had acquired the ownership and title by way of gift deed dated 23.6.1989 executed by Chanan Singh. He further submits that there is no challenge to the registered gift deed by the respondent-defendant.

I am afraid the aforementioned argument of the learned counsel for the appellant is devoid of merits for the reason that Chanan Singh prior to execution of the gift deed *ibid* had entered into an agreement to sell dated 24.12.1993 with Karnail Singh-respondent No.1-defendant No.1 and since Chanan Singh the donor of the appellant-plaintiff did not perform his part of the agreement to sell, the suit for specific performance of agreement to sell i.e. Civil suit No.447 of 2000 was filed by Karnail Singh against Chanan Singh. Chanan Singh did not take plea of gift deed in the written statement filed in those proceedings.

Had the name of the appellant-plaintiff been reflected in the revenue record the vendee-respondent-defendant would have impleaded the appellant-plaintiff in the aforementioned suit. Since there is no reflection of the entry of the gift deed in revenue record, vendee did not have an occasion to challenge the gift deed even though it is registered. The execution of the gift deed is equivalent to entering into a subsequent agreement to sell, much less execution of sale deed in favour of third party.

It is a matter of record that Chanan Singh did not challenge the decree dated 10.2.2006 which had

attained finality viz-a-viz Chanan Singh donor of the appellant-plaintiff.

Both the Courts below have rendered a finding of fact and law after appreciation of oral and documentary evidence. I do not find any illegality or perversity in the aforementioned judgments and decrees of the courts below.

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

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

February 12 , 2015
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