

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2426 of 2014 (O&M)
Date of Decision: April 07, 2015

Deepak Aggarwal

...Appellant

Versus

Raj Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Rose Gupta, Advocate
 for the appellant.

INDERJIT SINGH, J.

Appellant-plaintiff Deepak Aggarwal has filed this regular second appeal against Raj Kumar and other respondents challenging the judgment and decree dated 02.06.2010 passed by learned Civil Judge (Junior Division), Hisar vide which the suit for declaration filed by the plaintiff-appellant was dismissed and judgment and decree dated 17.01.2014 passed by learned Addl. District Judge, Hisar, vide which appeal filed by the appellant was also dismissed.

The brief facts of the case are that Deepak Aggarwal, plaintiff filed a suit against Raj Kumar and other defendants. The case of the plaintiff is that the suit property i.e. Plot No.92 and shops and residential house constructed thereon was purchased from the income of the agricultural land measuring 31 kanals 7 marlas, which was owned and possessed by Sh. Norang Rai, grandfather of the

plaintiff and he inherited the same from his father Sh.Sita Ram. According to plaintiff, agricultural land is the property of joint Hindu family and he is having coparcenary rights in that property by birth and suit property was purchased by his grandfather from the income of agricultural land and funds of joint Hindu family. It is also the case of the plaintiff that when the suit property was purchased, at that time, father of the plaintiff and defendant No.1-Raj Kumar had no sufficient source to purchase the plot and to raise the construction thereon and that is why the plot was purchased by his grandfather in name of Sh.Bishambher Dayal. On this ground, plaintiff alleged that the suit property is ancestral property of the plaintiff and he has a right in it by birth. It is further the case of the plaintiff that defendant No.8, Hisar Improvement Trust executed a sale deed in favour of defendant No.1 to the extent of 1/2 share without any title of defendant No.1 and during the pendency of the RSA, in a suit for partition between father of the plaintiff and defendant No.1, defendant No.1 sold half share of the entire plot to defendants No.2 and 3 vide sale deed dated 23.05.2003. Defendants No.2 and 3 have further sold four shops constructed on the ground floor vide different sale deeds to defendant No.4 and defendants No.2 and 3 also sold the property to defendants No.5, 6 and 7. According to plaintiff, defendant No.1 had no right or authority to alienate any part of the suit property it being ancestral and coparcenary property.

Learned Civil Judge (Junior Division), Hisar vide judgment and decree dated 02.06.2010, dismissed the suit of the plaintiff by

holding that plaintiff has not led any cogent evidence on record to prove that property in dispute is the ancestral property of the plaintiff. The plaintiff's case is that property has been purchased from the funds of the agricultural land of the joint Hindu family. The plaintiff even has not produced on record jamabandi to show any agricultural land in the name of Norang Rai, grandfather of the plaintiff. No cogent evidence has been led by the plaintiff for proving the case that it is the joint Hindu family property. These findings of fact are correct and as per law and these have also been upheld by learned Addl. District Judge, Hisar vide judgment and decree dated 17.01.2014. The findings of the Court below are correct. No substantial question of law arises in the present case.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

April 07, 2015
Vgulati

(INDERJIT SINGH)
JUDGE