

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

**111**

*RSA No. 3883 of 2014*

*Date of decision: 02.11.2015*

*Hafij and others*

**....APPELLANTS**

**VERSUS**

*Smt. Jahuri and others*

**....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. N.D.Achint, Advocate,  
for the appellants.

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**AUGUSTINE GEORGE MASIH, J. (ORAL)**

Challenge in this appeal is to the judgment and decree passed by the Civil Judge (Senior Division), Nuh at Mewat dated 19.09.2013, by which the suit for declaration that the sale deed dated 22.12.2010 Ex. P4 is illegal and violative of the judgment and decree dated 08.10.2001 passed by the Civil Judge (Junior Division), Nuh, in Civil Suit No. 230 of 1997, whereby respondent No. 1-Smt. Jahuri wd/o Hussain Khan was given the rights for her life for maintenance and with a rider that a land could be sold only in case of necessity and there being no legal necessity, the said land could not have been sold by her, stands dismissed.

2. Learned counsel for the appellants contends that the necessity, which has been depicted by respondent No. 1-Smt. Jahuri, is not of such a

nature which would have entitled her to sell the land vide sale deed dated 22.12.2010 and the Courts below have ignored the aspect that as regards the loan of the tractor, which is one of the necessity apart from the *Chhuchhak* and other ceremonies, which were to be performed with regard to the married daughters, were those which have already been given effect to and, therefore, when the sale deed was executed, there was no necessity as such. He, thus, contends that it was not a bona-fide sale on the part of respondent No. 1-Smt. Jahuri in favour of Sushila Devi wife of Madan Parkash and Kamlesh Dagar wife of Surender Parkash, respondents No. 2 and 3 respectively.

3. I have considered the submissions made by the learned counsel for the appellants-plaintiffs and with his assistance, have gone through the impugned judgments but cannot accept his contentions.

4. The Courts below have taken into consideration these very aspects and have discussed each and every aspect thereof in detail. The grounds, which have been taken by respondent No. 1-Smt. Jahuri, have been considered by the Courts below in the light of the assertions, as have been pointed out by the counsel for the appellants and have rightly been taken into consideration to the effect that the amount, which was available with her or the income generated from the land, stood exhausted by paying of the loan for the tractor as also in the ceremonies with regard to *Bhaat* and *Chhuchhak* etc. of her daughters. She has also been able to prove that she was suffering from medical ailments, because of which, a huge amount was spent on her treatment. All these showed that whatever funds were available with her or were generated from the land, stood exhausted. It has also come on record that she wanted to go for *Haj* apart from the medical

treatment, which was required for her.

5. Counsel for the appellants, on the basis of the sale deed, has informed the Court that the amount of consideration, which has changed hands, was ₹ 2 lacs. In the consideration of this Court, an amount of ₹ 2 lacs, which she got from the said sale deed, would be required for performing her religious obligations of *Haj* as also her medical expenses, which she would incur on her treatment. The judgments and decree passed by the Courts below are based on proper appreciation of the pleadings and evidence brought on record.

6. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

7. In view of the above, finding no merit in the present appeal, the same stands dismissed.

**November 02, 2015**

*pj*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**