

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

Regular Second Appeal No.4462 of 2014 (O&M)

Date of decision:01.09.2015

Amrit Kaur and others

... Appellants

versus

Smt. Kreshni and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jaspal Singh Maanipur, Advocate,
for the appellants.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (*Oral*)

1. The plaintiff's suit was filed in the year 2002 assailing a sale made by the first plaintiff's husband on 06.07.1987 through his power of attorney. The plaintiff's contention was that it was an ancestral property and the property was assigned in favour of her husband subsequent to his death in the year 1997. The sale had been effected by the power of attorney even without proof that the first plaintiff's husband was the independent owner of the property and that he could effectively transfer.

2. I asked the counsel as to how a sale made in the year 1987 could be assailed in the year 2004. The counsel explains that

the sale was made without necessity and the property was actually ancestral property. If the property was ancestral in character, a sale by a quondam minor will be required to be instituted within a period of 3 years from the date of sale or when he attains majority, whichever was later. The suit cannot be brought 17 years after the sale. He has a second argument to make that the plaintiff's husband was granted the assignment only subsequent to his death in the year 1997 and at the time when the sale was effected by the first plaintiff's husband through the power of attorney, he was not even the owner. If he was not the owner, it cannot make a difference for a person who had an imperfect title and who sold the property came by a benefit of acquiring title, the law provides assistance to the purchaser by virtue of Section 43 of the Transfer of Property Act by invoking principle of title feeding the estoppel. The right which he subsequently obtained, assuming for argument that at the time when the sale was effected, he was not even the owner, would be perfected by virtue of operation of law statutorily protected under Section 43 of the Transfer of Property Act.

3. There is no merit at all in the second appeal. Second appeal is dismissed.

(K.KANNAN)
JUDGE

01.09.2015
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