

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4723 of 2014 (O&M)
Date of Decision.18.12.2015

Pala Ram and others

.....Appellants

Vs.

Prem Chand and others

.....Respondents

Present: Mr. K.S. Dhanora, Advocate
for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

C.M. No.14326-C of 2015

For the reasons stated in the application, order passed by this Court on 31.10.2015 is recalled and the second appeal is restored to its original number.

Application is allowed.

RSA No.4723 of 2014

1. The appeal is to challenge the judgment granted in favour of the respondent-plaintiff who laid the claim to the property as purchaser from one Bijja Ram. Bijja Ram was one of the sons of Khilla Ram who claimed that the proeprty belonged to the father Khilla Ram having been obtained by him in a grant made under the Bhudan Movement and Khilla Ram had during his life time executed a Will bequeathing the property to his son to the exclusion of all other persons. Khilla Ram had died on

15.08.1996 when the Will took effect and the beneficiary under the Will Bijja Ram executed a sale in favour of the plaintiff on 17.12.2004. The principal contest was entered by other brothers of Bijja Ram who are the appellants before this Court contending that the father had no right to execute a Will and that further the sale was also invalid. The trial Court found the Will to be true but still dismissed the suit but in the appeal, the lower Appellate Court found that consistent with the finding that the Will was true, the sale executed by the beneficiary under the Will was perfectly justified and no objection could be taken by the other brothers.

2. Learned counsel appearing for the defendant-appellant contends that there was interdict against the sale by virtue of Section 25 of the Punjab Bhudan Yagna Act and therefore, the Will executed by the father will not be valid. The contention would require only to be rejected, for the Will cannot be taken as a transfer of interest in the property during the life time to which the interdict under Section 25 could apply. Even if the Will were to be construed as transfer, the restraint against transfer was effective only for a period of 10 years under the terms of grant and the position of the Act and Khilla Ram who had obtained the gift under the Punjab Bhudan Yagna Act on 27.02.1974 had died only in the year 1996. His Will operated only on the date of his death and the instrument having taken effect more than the period prescribed under the provisions of the Act itself cannot constitute any fetter to the devolution of interest by virtue of Will. Bijja Ram has sold the property in turn to the plaintiff which was under the circumstances perfectly justified.

3. The Court below has approached the issue correctly and

there is no error for intervention in the second appeal. The second appeal is without merit and it is dismissed.

(K. KANNAN)
JUDGE

December 18, 2015
Pankaj*