

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No. 497 of 2014(O/M)
Date of decision : 30.11.2015

Hari Singh and others Appellants

Versus

Smt. Punia and others Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Adarsh Jain, Advocate, for the appellants.

Mr. Rakesh Kumar Sharma, Advocate,
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Impugned in the present regular second appeal is the judgment and decree dated 29.8.2012, passed by the learned Additional District Judge, Palwal, affirming the judgment and decree dated 19.10.2010, passed by the learned Civil Judge (Junior Division), Palwal, vide which the suit of the plaintiff for declaration and injunction as a consequential relief thereof, was dismissed.

The short controversy involved in this case is that Bhura, the original owner of the property in question, died leaving behind his widow Ganga Dai, son Bed Ram and two daughters Vidhya and Punia. The property of Bhura was succeeded by all the said four

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legal heirs. On 3.9.1981, Ganga Dai suffered a consent decree in favour of her daughter Punia, whereby the suit land was transferred in her favour. The plaintiffs, who happen to be the sons of Bed Ram (now deceased) son of Bhura, have challenged the said judgment and decree dated 3.9.1981 on various grounds.

I have heard the learned counsel for the parties and have also carefully gone through the file.

It comes out that the consent decree was suffered on 3.9.1981. Ganga Dai died in the year 1986. The mutation of partition was sanctioned between Bed Ram (now deceased) and his sister Punia in the year 1986, which means that Bed Ram had come to know that his mother Ganga Dai had transferred his property in favour of Punia. Consequently, the limitation will start running from the date of sanctioning of mutation i.e. in the year 1986. Bed Ram later on died in the year 1997. During his life time, he did not challenge the said consent decree. The plaintiffs, who are claiming their rights to Bed Ram, filed the suit in the year 2002, i.e. after about more than 21½ years, to challenge the said consent decree.

I am of the view that both the Courts below have rightly held that the suit is time barred. The plaintiffs have no right to challenge the said consent decree. The consent decree was suffered by Ganga Dai in the year 1981 and was not objected by her two other legal heirs, namely, Bed Ram and Vidhya. It being so,

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the present suit is found to be completely frivolous and appears to be a tactic to compel Punia to at least part with some share in the property. Therefore, the lower Court apparently erred in granting no costs to the defendants. Such type of frivolous suit has to be discouraged and dealt with heavy hands. As such, the costs of the suit throughout are allowed to the contesting defendant No. 1. The present regular second appeal is accordingly dismissed with costs of Rs. 20,000/-.

(KULDIP SINGH)
JUDGE

30.11.2015.
sjks