

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

RSA No.1249 of 1991 (O&M)

Date of decision: 27.08.2016

Bohti

-Appellant

Versus

Sheo Karan and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Raj Kumar Gupta, Advocate
for the appellant.

Mr. Rakesh Nagpal, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Pursuant to order dated 19.08.2016, affidavit of Phool Patti daughter of Jug Lal, joint affidavit of Roshni widow of Harpal, Shamsher, Rajbir and Suresh sons of Harpal, Tara Devi widow of Dharam Pal, Dalsher, Raj Kumar and Deep Chand sons of Dharam Pal, Smt. Kamla and Smt. Vimla daughter of Dharam Pal have been filed in the Court through Mr. Rakesh Nagpal, Advocate for the respondents. Since the parties have compromised the issue by compromise dated 08.07.2016, these affidavits are taken on record. Compromise dated 08.07.2016 filed along with CM No.9675-C of 2016 is also taken on record as Ex.C1 by allowing the application under Order 23 Rule 3 CPC.

[2]. A suit for declaration was filed by Sheo Karan and Phool Patti in respect of 16 kanals of land by challenging the Civil Court decree dated 19.01.1981 passed in Civil Suit No.605 of 1980 titled as

Smt. Phool Patti Vs. Jug Lal.

[3]. Jug Lal was the original owner of the suit land. He was father of Smt. Phool Patti and father-in-law of Smt. Bohti. Jug Lal transferred 77 kanals and 18 marlas of land in favour of Phool Patti. Phool Patti in turn transferred 16 kanals of land back to Jug Lal vide Civil Court decree dated 27.05.1977 passed in Civil Suit No.363 of 1976 for his (Jug Lal) maintenance with restriction not to alienate the same. The said transfer was on account of compromise dated 27.05.1977. After the death of Zile Singh son of Jug Lal and husband of Bohti, Jug Lal transferred this 16 kanals of land in favour of Smt. Bohti vide Civil Court decree dated 19.01.1981 passed in Civil Suit No.605 of 1980. The restriction contained in the decree dated 27.05.1977 was the bone of contention as the same was claimed to be reckoning to interest created and was claimed to be hit by provision contained in Section 11 of Transfer of Property Act.

[4]. The decree dated 19.01.1981 suffered by Jug Lal in favour of Bohti was challenged by Phool Patti. Trial Court decreed the suit vide judgment and decree dated 30.11.1987 thereby declaring decree dated 19.01.1981 passed in Civil Suit No.605 of 1980 titled as Phool Patti Vs. Jug Lal to be null and void and not binding upon the rights of the plaintiff qua land measuring 16 kanals. The decree and judgment of the trial Court was upheld by the lower Appellant Court vide judgment and decree dated 09.01.1991. That is, how, the present appeal came to be filed.

[5]. I have heard learned counsel for the parties.

[6]. During pendency of the present appeal, both the parties have amicably struck a compromise between them. Vide this

compromise, land transferred in favour of Smt. Bohti would be given to her and Smt. Phool Patti would have no right, title or interest therein. Civil Court decree dated 19.01.1981 passed in Civil Suit No.605 of 1980 would be treated as correct and the present appeal is liable to be accepted in the light of compromise dated 08.07.2016.

[7]. Respondents namely Phool Pati daughter Jug Lal and Dalsher son of Dharam Pal who is special power of attorney of Shamsheer, Rajbir, Suresh, Roshni, Raj Kumar, Deep Chand, Tara Devi, Kamla and Vimla are present in Court. Original special power of attorney dated 26.08.2016 is also taken on record. Smt. Phool Patti and Dalsher have been duly identified by Mr. Rakesh Nagpal, Advocate for the respondents. Their statements are also separately recorded in support of compromise which will form part of the present judgment.

[8]. On the other hand, Smt. Bohti is also present in Court who has been duly identified by Mr. Raj Kumar Gupta, Advocate for the appellant. Her statement has also been recorded separately and the same will also form part of the judgment.

[9]. In view of aforesaid compromise, both the parties have settled their *lis* in an amicable manner. The land measuring 16 kanals which was subject matter of the suit now agreed to be given to Smt. Bohti in recognition of Civil Court decree dated 19.01.1981 passed in Civil Suit No.605 of 1980.

[10]. On 03.08.2016, RSA No.3501 of 2005 titled as Bohti Vs. Dharampal etc. was also ordered to be attached with this appeal.

The said appeal be de-attached from the record of the present

appeal and the parties would be at liberty to file any compromise therein if so advised.

[11]. In view of aforesaid, this Regular Second Appeal is allowed. Judgment and decree dated 09.01.1991 passed by Additional District Judge, Kurukshetra confirming and upholding the judgment and decree dated 30.11.1987 passed by Sub Judge Ist Class, Kaithal is hereby set aside. Both the parties are left to bear their own costs. Compromise shall form part of decree as well.

27.08.2016

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No