

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

RSA No.2611 of 2008 (O&M)
Date of decision : 05.02.2016

Rakesh

...Appellant

Versus

Ramji Lal (deceased through LRs) and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. R.S. Tacoria, Advocate for the appellant.

Mr. Akshay Goel, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

The appellant-defendant is aggrieved of the judgment and decree of the lower Appellate Court, whereby the suit for declaration and permanent injunction, has been dismissed by the trial Court, in essence, the judgment and decree of the trial Court dismissing the suit, has been set aside.

Mr. Tacoria, learned counsel appearing on behalf of appellant-defendant submits that defendant No.1 admittedly is adopted son of Ganga Ram. Ganga Ram had by virtue of judgment and decree dated 22.01.1991 transferred the right and share in his favour, as he was issueless. The

respondents-plaintiffs are sons of Sudhan brother of Udmi father of Ganga Ram filed a civil suit on 06.05.1991 challenging judgment and decree dated 22.01.1991 on the basis that they had acquired the title and interest in the property by virtue of judgment and decree dated 12.04.1983 Ex.P19 and Ex.P20. The trial Court rightly found that suit was barred by law of limitation, much less, decree of 1983 required registration. However, the lower Appellate Court rejected the aforementioned findings by reversing well reasoned judgment of the trial Court, in essence, decreed the suit. Suit was ex facie barred as no declaration of title vis-a-vis the decree dated 12.04.1983 had been sought and since decree entail into acquiring of the right for the first time in favour of the plaintiff thus it required registration, thus, substantial questions of law arises for determination.

Mr. Akshay Goel, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that Ganga Ram had died issueless. The respondents-plaintiffs are none else but the children of Sudhan brother of Udmi father of Ganga Ram and thus they being collateral had pre-existing right in the property therefore decree of 1983 does not requires registration. As regards limitation for the purpose of claiming declaration on the basis of title, there is no limitation. Even otherwise, decree dated 22.1.1991 was sought to be declared null and void by filing suit on 06.05.1991 and rightly so, judgment and decree of the trial Court on these points have been reversed, in essence, suit has been decreed.

I have heard learned counsel for the parties and appraised the paper book.

It is a matter of record that Ganga Ram died issueless and

Ramji Lal are sons of second brother of the father of the Ganga Ram. They had pre-existing right and, therefore, judgment and decree dated 12.04.1983 Ex.P19 and Ex.P20 did not require registration. Suit was filed on 06.05.1991 challenging the judgment and decree dated 22.01.1991. It is settled law that for claiming the title, there is no limitation. Lower Appellate Court rightly reversed the findings rendered by the trial Court by decreeing the suit.

I do not intend to differ with the findings rendered by the lower Appellate Court which are based upon oral and documentary evidence brought on record, much less, no substantial question of law arises for determination.

Accordingly, appeal stands dismissed.

05.02.2016

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**(AMIT RAWAL)
JUDGE**