

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 3636 of 2008(O&M)
Date of decision : March 11, 2016

Abhishek Khanna and another

..... Appellants

Versus

M/s Kapursco Cold Storage (P) Ltd.and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sukhdeep Parmar, Advocate
for the appellants.

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?

Amit Rawal, J (oral).

The appellants-plaintiffs are aggrieved against the concurrent finding of fact whereby the suit for declaration and permanent injunction that the property at the hands of great grand father Radha Krishan Khanna was ancestral in nature and therefore the sale deed effected in the year 1960 and decree dated 4.6.1986 is not binding upon them has been dismissed.

Learned counsel appearing on behalf of the appellants-plaintiffs submits that plaintiffs are none else but the fourth generation in lineage, therefore they had a right by birth and the

property was co-parcenary and could not have been sold in the manner and mode adopted by the respondents. Both the courts below have committed illegality and perversity, thus, urges this court to formulate substantial questions of law as carved out in the grounds of appeal.

I have heard learned counsel for the appellant and appraised the paper book and of the view that even the great grand father Gopal Krishan Khanna had also challenged the sale deed executed by his father which was also dismissed and there is no appeal filed against the same. No doubt that the appellants are fourth generation in lineage but for proving character and nature of the property, some record has to be proved to connect and enable the court to form an opinion that the property at the hands of Ram Krishan Khanna is ancestral. No evidence has been lead except a self serving statement that the property at the hands of Ram Krishan Khanna was ancestral. The courts below had no occasion but to dismiss the suit in the absence of any evidence. It is a well settled law that the appellants-plaintiffs in order to prove the averments in the plaint have to stand on his own legs and not on the weaknesses in the defence of the respondents-defendants in view of the provisions as enshrined under Section 101 of the Indian Evidence Act, 1872.

I do not intend to differ with the finding rendered by both the courts below which is based on appreciation of oral and documentary evidence. There is no illegality or perversity in the aforementioned judgments and decrees of the courts below.

No substantial question of law arise for determination by this Court.

In view of what has been observed above, the appeal is devoid of merits, accordingly, the same is dismissed.

(AMIT RAWAL)
JUDGE

March 11, 2016
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