

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

RSA No.3994 of 2011 (O&M)

Date of decision:05.05.2016

Jaswinder Singh

... Appellant

Vs.

Rachhpal Singh and another

... 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. Nakul Sharma, Advocate
for the appellant.

Mr. Jatinder Pal Singh, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

Appellant-defendant is aggrieved of the concurrent findings of facts and law, whereby, suit seeking declaration of setting aside of the sale deed dated 14.11.2003 registered on 19.11.2003 allegedly executed by Samma Singh in his favour, has been set aside.

Mr. Nakul Sharma, learned counsel appearing on behalf of the appellant-defendant submits that respondent-plaintiffs, in order to prove their case, have to stand on their own legs but miserably failed to prove the death of Samma Singh as no death certificate or corroborative evidence has been brought on record. All these facts have not been noticed by the Courts below. Whereas, the

trial Court has heavily relied upon Ex.P1, copy of the suit instituted by appellant-defendant against Darshan Singh and Jagir Singh challenging the same very sale deed on the premise that the aforementioned persons having impersonated Samma Singh and therefore, the fact that Samma Singh was not alive at the time when the sale deed has been admitted. He further submits that the aforementioned evidence cannot be looked into as the respondent-plaintiffs were required to lead direct and independent evidence and thus, urges this Court to formulate the substantial questions of law as culled out in the grounds of appeal.

Mr. Jatinder Pal Singh, learned counsel appearing on behalf of the respondent-plaintiffs submits that factum of admission of death of Samma Singh being impleaded in suit (Ex.P1) itself is the evidence which can be looked into in view of the provisions of Section 58 of the Indian Evidence Act and thus, urges this Court for affirming the findings rendered by both the Courts below.

I have heard learned counsel for the parties and appraised the impugned judgments and decrees of the Courts below and of the view that facts which have been proved in the earlier round of litigation can be considered in subsequent proceedings. Once the appellant-defendant admitted the factum of Samma Singh being not alive at the time when the sale deed was effected, onus to prove the controversy was upon the appellant-defendant, but having failed to do so, averments made in the plaint has been proved to the

fact that Samma Singh on the date of the execution of the sale deed, much less, registration, aforementioned, was not alive.

In view of the foregoing observations, I do not intend to differ with the findings rendered by both the Courts below, which based upon the appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 05, 2016
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