

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

Regular Second Appeal No.3896 of 2016 (O&M)

Date of decision: 8.8.2016

Mukhtiar Singh

... Appellant

Versus

Charanjit Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.D.S.Gurna, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.10082-C-2016

For the reasons stated in the application, the delay of 20 days in filing the present appeal is condoned.

RSA No.3896 of 2016

The appellant-plaintiff is aggrieved of the dismissal of the suit seeking declaration for setting aside the order dated 22.8.2003 of the Collector, Sub Division, Patiala being null and void much less consequential relief of mandatory injunction has also been declined by both the courts below.

Mr.Gurna learned counsel appearing on behalf of the appellant submits that Amar Singh is the father of plaintiff and his three brothers Piara Singh, Jagdeep Singh and Ranjit Singh. Ranjit Singh died unmarried and

issueless. Jagdeep Singh sold the entire share though he was inimical towards the plaintiff and proforma defendants and he introduced one Charanjit Kaur (unsound mind) daughter of Shankar as wife of Ranjit Singh. In fact, she was never married with Ranjit Singh but during his life time, he mortgaged land i.e. the suit land to defendant No.2-Satwant Kaur but the possession of the same remained with the plaintiff and proforma defendants. The suit for redemption before the Collector was filed through Tek Chand alleged guardian of Charanjit Kaur against Satwant Kaur which was accepted vide order dated 22.8.2003. He submits that the order of guardianship came to be passed in the year 2008. The courts below held that the appointment of guardian would relate back to the proceedings initiated for redemption before the Collector, i.e., up to the passing of the order dated 22.8.2003. The appellant-plaintiff was co-sharer and Ranjit Singh could not mortgage his share to Satwant Kaur mortgagee. The courts below have not noticed the provisions of Chapter 6 of Mental Health Act, 1987. The appointment of Tek Chand as guardian in 2008 could not validate the provisions of the Act than in 2003. All these facts escape to the notice of the Courts below resulting into illegality and perversity and urges this Court to set aside the impugned judgments and decrees.

I have heard the learned counsel for the appellant and perused the paper-book.

It is the conceded position that Ranjit Singh had mortgaged the property on 13.6.1986 to Satwant Kaur. The appointment of guardian in 2008 in my view shows that Charanjit Kaur was wife of Ranjit Singh and evidence in that regard has already been led. Rather the plaintiff-appellant

failed to lead any evidence that Charanjit Kaur was married to Ranjit Singh. It is also a matter of record that after the demise of Ranjit Singh, the revenue record shows mutation of the property in the name of Charanjit Kaur. Plaintiff Mukhtiar Singh never remained in possession of the disputed property. Even otherwise, Tek Chand was the representative of Charanjit Kaur for redemption of property and, therefore, it was not against her welfare but in her interest and, therefore, appointment of guardian in 2008 would not have invalidated the proceedings of redemption initiated much earlier culminated into passing of the order on 22.8.2003 Ex.PW1/B.

For the reasons aforementioned, I am of the view that the judgments and decrees under challenge are based upon appreciation of oral and documentary evidence and I do not find any illegality and perversity muchless any substantial question of law. No interference is warranted. Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 8, 2016

Paritosh Kumar

Whether speaking/reasoned : Yes

Whether reportable : Yes/No