

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 2743 of 2015 (O&M)
Date of decision : February 11, 2016

Sadhu Singh and others

..... Petitioner

Versus

Nachattar Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Karanjit Singh, Advocate
for the appellants.

Mr. S. S. Sarwara, Advocate
for the respondent-caveator.

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-defendants are aggrieved against the judgment and decree dated 29.3.2012 whereby the suit filed by the respondent-plaintiff for declaration, permanent injunction as well as for possession on the basis of title acquired through registered sale deed dated 2.2.1976 in respect of agricultural land measuring 6 bighas 5 biswas has been decreed.

Learned counsel appearing on behalf of the appellants-defendants submits that there was no relationship of husband and wife between the plaintiff-Nachhatar Kaur and

defendant No.1-Sadhu Singh, thus, was no occasion for executing a sale deed. Ex-parte judgment and decree dated 24.8.1995 is valid as it has not been challenged for number of years. Third party rights have been created vide sale deed dated 25.7.2001 by alienating the property in favour of defendant Nos. 2 and 3, thus, the trial court has committed illegality and perversity in not framing issue viz-a-viz relationship of husband and wife. The respondent-plaintiff has failed to prove that she was at any point of time married. She intentionally did not appear in the suit, which ultimately resulted into ex-parte judgment and decree dated 24.8.1995.

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

There is no substance in the contention of the learned counsel for the appellants for the reason that ex-parte judgment and decree has been obtained by giving incorrect address of respondent-plaintiff. This fact has been noticed by the courts below and found that the ex-parte judgment and decree dated 24.8.1995 had been obtained by playing fraud upon court after having acquired knowledge of the aforementioned facts, the said suit was filed on 17.1.2006

I am in agreement with the findings rendered by the trial court and upheld by the lower appellate court viz-a-viz fraud having been played upon respondent-plaintiff in obtaining ex-parte judgment and decree. The summons were sent at Village Chadiala, Tehsil Kharar, Distt. Ropar whereas respondent-plaintiff was living in village Mirjapur Tehsil Rajpura District Patiala.

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. I do not find any 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

February 11 , 2016
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