

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

RSA No.3890 of 2015 (O&M)

Date of decision:27.07.2016

Laxman Singh

... Appellant

Vs.

Ramjan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajesh Lamba, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

Appellant-defendant is aggrieved of the impugned judgments and decrees of the Courts below, whereby, suit seeking declaration with permanent injunction for setting aside of the sale deed dated 21.05.2007 executed by defendants No.2 and 3 being legal heirs of Kalu son of Khillu, in favour of defendant No.1, has been set aside.

Mr. Rajesh Lamba, learned counsel appearing on behalf of the legal representatives of Kalu submits that the case set up by the respondent-plaintiff was that vide registered sale deed dated 21.10.1993, he had purchased disputed/suit land measuring 1 marla, i.e., from Kalu. According to the plaintiffs, Kalu died on 04.01.1987 and therefore, his LRs could not have sold the property to defendant No.1. He further submits that apparently, Kalu expired in the year 1987 and therefore, he could not have executed the sale deed in the year 1993 but the Courts below have non-

suited the appellant on the ground that death entry was only made after filing of the suit, therefore, did not believe the same. Both the Courts below have committed illegality and perversity in not examining the aforementioned aspect and thus, urges this Court for formulating the substantial questions of law as culled out in the memorandum of appeal.

I have heard learned counsel for the parties and appraised the judgments and decrees of the Courts below.

If at all, the defendants had stepped into the shoes of Kalu and were aggrieved of the sale deed, they could have set up a counter claim and therefore, the aforementioned submission is not sustainable in the eyes of law and is hereby rejected. From findings and record, it is irresistibly concluded that Kalu had legally executed a Will dated 21.10.1993 in favour of plaintiff and therefore, his LRs in the year 2007 could not have allegedly inherited his share in the absence of any title or interest in the property. Thus, both the Courts below rightly held that the sale deed was without title and declared it null and void.

In view of the aforementioned observations, in my view, the judgments and decrees rendered by both the Courts below do not warrant any interference as the same are based upon the appreciation of oral and documentary evidence.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below. No substantial question of law arises for adjudication of the present appeal.

Accordingly, the appeal is dismissed.

July 27, 2016
savita

(AMIT RAWAL)
JUDGE

Wheather speaking/reasoned

Yes/No

Whether Reportable

Yes/No