

RSA No. 4180 of 2015 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA,

CHANDIGARH

RSA No. 4180 of 2015 (O&M)

Date of decision : May 30, 2016

Inder Sen (deceased) through L.Rs

..... Appellant

Versus

Paramjit Singh and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. B. S. Bhalla, Advocate
for the appellant.**

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 appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit seeking declaration of ownership with alternative relief of joint possession to the extent of ½ share has been dismissed.

Learned counsel appearing on behalf of the appellant submits that a fraud has been played upon him and his brother on the premise that plaintiff was bed ridden and his brother never came to India and died in Sweden. On coming to know that defendants are recorded

owners of the suit land in column No.5 i.e. cultivation column of copy of jamabandi, suit was filed. The defendant Nos. 1 and 2 set up a plea of Power of Attorney that they are owners of the property by virtue of sale deeds dated 7.2.1989 and 14.6.1988 and the sale deeds have been executed in pursuance to the agreement to sell.

He further submits that in order to prove the fraud and mis-representation, the plaintiff examined PW-1 Ashok Kumar and closed the evidence. Even no sale consideration has been passed to the plaintiff.

He further submits that in connivance with the revenue official defendant Nos. 1 and 2 manipulated change in the copies of jamabandies and got incorporated their names in the cultivation column as owners which has been proved on record. All these facts have escaped the notice of the courts below rather embarked upon a path which is not a pleaded case of the plaintiff, thus urges this Court for formulation of substantial questions of law as there is illegality and perversity in the impugned orders.

I have heard learned counsel for the appellant and appraised the paper book and of the view that compliance of provisions of Order 6 Rule 4 CPC is conspicuously wanting. There is no challenge to the registered documents/instrument i.e. sale deeds aforementioned

dated 7.2.1989 and 14.6.1988, though the Court would have moulded the relief as per Section 34 of the Specific Relief Act, 1963 but in the absence of evidence, no occasion arose for the same whereas on the contrary the defendants proved due execution and registration of the sale deed for a valuable consideration. There is no challenge to the aforementioned sale deeds dated 7.2.1989 and 14.6.1988 within three years of registration as the suit has been filed in the year 2006. All these facts have been noticed by both the courts below by arriving at a finding.

In view of the aforementioned facts, 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

May 30, 2016
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