

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

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Regular Second Appeal No.1978 of 2014 (O&M)
Date of Decision: April 01, 2016

Dharampal

...Appellant

Versus

Jai Narain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. J.P. Sharma, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 08.11.2012 passed by the Civil Judge (Senior Division), Narnaul, wherein a suit was filed by the respondents-plaintiffs for injunction to the effect that they were owners in possession of the land as detailed in the headnote, measuring 20 kanals 9 marlas, situated in village Morun, Tehsil Narnaul and the appellant-defendant had no right, title or interest in the said suit land. In the said suit, along with written statement, a counter claim was also filed, whereby the sale deed No.27 dated 04.04.1980, by which the suit land was sold by the grandfather of the appellant namely Kalia in favour of the respondents-plaintiffs, was challenged on the ground that it was without any legal necessity. During the pendency of the suit, the suit was withdrawn by the respondents-plaintiffs but on the insistence of the appellant-defendant, the counter claim was decided, rejecting the same on the ground that neither his grandfather Kalia nor his son Sohan, father of the appellant, had challenged the said sale deed No.27 dated 04.04.1980 during their lifetime. Appeal against which preferred by the appellant-defendant has been dismissed by the District Judge, Narnaul, on 10.12.2013.

2. It is the contention of learned counsel for the appellant that the judgments and decree impugned cannot sustain in the light of the fact that there was no legal necessity for selling the suit land. Unless the said legal necessity was established, the sale deed could have been challenged at any stage. He, thus, contends that the present appeal may be allowed by setting aside the impugned judgments and decree and decreeing the counter claim of the appellant-defendant.

3. I have considered the submissions made by learned counsel for the appellant and with his able assistance, have gone through the impugned judgments but do not find myself in agreement with the contentions as raised by the counsel for the appellant.

4. It is not in dispute that the registered sale deed in favour of respondents-plaintiffs was executed by Kalia, grandfather of the appellant, on 04.04.1980 for a total sale consideration of ₹24,000/-. Mutation No.829 dated 05.09.1980 has also been entered on the basis of the said sale deed in favour of the respondents-plaintiffs. The grandfather of the appellant namely Kalia nor has his father namely Sohan challenged the sale deed during their lifetime. That apart, the appellant has not been able to establish that the suit land was joint Hindu coparcenary property in the hands of his grandfather Kalia. If that be so, the challenge to the sale deed fails. The Courts below have, therefore, rightly rejected the counter claim of the appellant-defendant. The findings recorded by the Courts below are based upon proper appreciation of the pleadings and the evidence brought on record which do not call for interference by this Court.

5. No other point has been raised or argued by the counsel for the

appellant.

6. Both the Courts below have returned concurrent findings after properly appreciating the pleadings and the evidence brought on record by both the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

7. No substantial question of law is involved in the present appeal. Therefore, finding no merit in the appeal, the same stands dismissed.

8. In the light of the dismissal of the appeal, the application for stay i.e. CM No.4816-C of 2014, stands disposed of as infructuous.

April 01, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE