

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

RSA No.5159 of 2015 (O&M)

Date of Decision.05.12.2016

Ajeevan Kumar

.....Appellant

Vs

Rajesh Kumar and others

.....Respondents

Present: Mr. Rajinder Kumar Singla, Advocate
for the appellant.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff is aggrieved of the concurrent finding of fact whereby the suit seeking declaration by challenging the sale deed dated 20.08.2007 executed by Sem Chand, the father, has been dismissed.

Mr. Rajinder Kumar Singla, learned counsel appearing for the appellant-plaintiff submits that since the property in dispute situated in village abadi, there was no revenue record/number allotted. It was very arduous/incongruous to connect the property being ancestral. On the other hand, there is categoric admission in the cross-examination, much less, compromise of 1996, Ex.P2. All these facts, though noticed but have not been taken care as onus of proving the same has erroneously been placed on the shoulder of the appellant-plaintiff. On the contrary, the respondents-defendants have not led any evidence that the sale deed was for legal necessity. All these circumstances lead to irresistible conclusion that the property was ancestral and coparcenary, thus, urges this Court for setting aside the judgments and decrees under challenge by formulating the substantial questions of law as drawn in the memorandum of appeal.

book and of the view that there is no force and merit in the submissions of Mr. Singla. No evidence had been led that Sem Chand had acquired the property from his father Jyoti Parasad and grand father of the plaintiff. It was only two generations whereas there has to be three generations for claiming the nature of property to be ancestral. Some other evidence under Section 50 of the Indian Evidence Act ought to have been led to prove the same.

The opinion formed by both the Courts below that the property was not ancestral and challenge to the sale deed was not accepted, being the character of the property as self-acquired. I am in agreement with the findings rendered by both the Courts below as the same are based upon correct appreciation of fact and law, much less, no substantial question of law arises for consideration. No ground for interference is made. The second appeal is dismissed.

(AMIT RAWAL)
JUDGE

December 05, 2016
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No