

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. **RSA No. 5462 of 2015 (O&M)**
Date of Decision : 30.05.2016

Roshan LalAppellant

Versus

Nathu Ram and othersRespondents

2. **RSA No. 5463 of 2015 (O&M)**

Roshan LalAppellant

Versus

Nathu Ram and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjay Jain, Advocate
for the appellant in both the appeals.

Surinder Gupta, J.

Both the above captioned appeals are being decided by this common judgment.

2. Plaintiff-respondent no. 1-Nathu Ram purchased land measuring 29 *kanals* 14 *marlas* from Kalu Ram and Sadhu Ram (both brothers) vide sale deed dated 22.08.1986. They were owners to the extent of 2/3rd share in the total land measuring 89 *kanals* 2 *marlas* situated in village Rataur, H.B. No. 252, *Tehsil* Naraingarh, District Ambala. Possession of land measuring 29 *kanals* 14 *marlas* was also delivered to plaintiff at the spot. However, while sanctioning mutation on the basis of sale deed, it was entered and sanctioned for the land measuring 23 *kanals* 12 *marlas* instead of 29 *kanals* 14 *marlas* and later on enquiry, it transpired that *kharas* no. 59//14 (10-0) got omitted in the sale deed while describing the land measuring 89 *kanals* 2

appraisal of evidence concluded as follows:-

“14. Thus, it leaves no doubt that sale deed no. 450/1 dated 22.08.1986 was executed by defendant no. 1-Kalu Ram and Sadhu Ram, father of defendants no. 2 and 3 in favour of plaintiff with regard to land measuring 29K-14M. Plaintiff is claiming that he is owner of land measuring 29K-14M, however, mutation of land was sanctioned in favour of plaintiff with regard to 23K-12M only. Moreover, in the sale deed in question khasra no. 59//14 (10-0) was left to be mentioned inadvertently though possession of said khasra number was delivered to him.....”

3. Ist Appellate Court also observed that Kalu Ram and Sadhu Ram have sold land measuring 29 *kanals* 14 *marlas* out of total land measuring 89 *kanals* 2 *marlas* vide registered sale deed dated 22.08.1986. Being purchaser of land measuring 29 *kanals* 14 *marlas*, plaintiff-respondent no. 1 is entitled to get mutation no. 2023 dated 22.09.1986 rectified for land measuring 29 *kanals* 14 *marlas* in his favour instead of 23 *kanals* 12 *marlas*.

4. Roshan Lal one of the legal heirs of Kalu Ram has come up with this appeal on the ground that in the sale deed *khasra* no. 59//14 (10-0) was not mentioned. He also took the plea that the sale deed was forged and fabricated document and the appellant has not come up with any explanation as to why revenue entries were not got corrected for about 30 years.

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5. Roshan Lal son of Kalu Ram filed suit for declaration challenging the sale deed dated 22.08.1986 executed by Kalu Ram father of

plaintiff in favour of defendant no. 1-Nathu Ram alleging the same as forged and fabricated document, not binding on the right of plaintiff and other legal heirs of Kalu Ram.

6. Both the Courts below discarded the plea of Roshan Lal and held sale deed dated 22.08.1986, a legal and valid document and dismissed the suit.

7. I have heard learned counsel for the appellant and perused the paper-book with his assistance.

8. This fact is not disputed that the sale deed dated 22.08.1986 was executed by Kalu Ram and Sadhu Ram for sale of land measuring 29 *kanals* 14 *marlas* out of 89 *kanals* 2 *marlas* land. Both the Courts below have concluded that due to inadvertence one *khasra* number of the land bearing no. 59//14 (10-0) was not mentioned in the sale deed. Due to this mistake mutation of land measuring 23 *kanals* 12 *marlas* was sanctioned. Plaintiff is seeking declaration of his title and a suit seeking declaration of title is not barred by limitation until and unless the party opposing claim of plaintiff succeeded in proving his/her title over the suit property adverse to the title of plaintiff. Sanctioning of mutation is only for fiscal purposes and does not confer any right, title or interest in the property and cannot be read against recital in the sale deed executed in favour of plaintiff-respondent no. 1-Nathu Ram whereby he was sold 29 *kanals* 14 *marlas* of land by Kalu Ram and Sadhu Ram. It is only one of the legal heirs of Kalu Ram who is challenging the claim of plaintiff based on the sale deed executed by his father. Other eight legal heirs of Kalu Ram neither filed any suit nor have come up with any appeal. Learned counsel for the appellant has submitted that Nathu Ram is son-in-law of Sadhu Ram one of the vendor, as such, his

claim was not contested by legal heirs of Sadhu Ram.

9. It is apparent that Kalu Ram during his life time never challenged the sale deed executed by him. Both the Courts below have rightly discarded the plea of plaintiff seeking declaration that the sale deed is forged and fabricated document. After a long period of about 24 years, this remedy was not available to plaintiff. Even otherwise, he utterly failed to prove by leading any cogent and convincing evidence that the sale deed was result of fraud and undue influence. Kalu Ram died on 12.10.2007 i.e. after a period of 21 years of execution of sale deed. During this long time, he never raised any plea that the sale deed was got executed from him under misrepresentation or on the pretext of getting some mortgage deed executed. As per sale deed dated 22.08.1986, which is a legal and valid document and plaintiff vide this sale deed had purchased land measuring 29 *kanals* 14 *marlas* and both the Courts below have committed no error of law or fact while recording the finding to this effect in both the cases. Learned counsel for the appellant has not been able to point that findings recorded by the Courts below are based on misreading and wrong interpretation of evidence on record.

10. No other argument has been advanced by learned counsel for the appellant.

11. No substantial question of law requiring determination arises in these appeals, which have no merit.

Dismissed.

May 30, 2016
jk

(SURINDER GUPTA)
JUDGE