

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

(1) RSA-3641 of 2014 (O&M)
Date of decision: 03.03.2016

Harnam Singh

...Appellant

Versus

Shamsher Singh and others

...Respondents

(2) RSA-5439 of 2014 (O&M)
Date of decision: 03.03.2016

Gurpartap Singh

...Appellant

Versus

Shamsher Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Jain, Advocate for the appellant.

Jitendra Chauhan, J. (Oral)

The plaintiff/appellant has filed the present appeal assailing the impugned judgments passed by the Courts below, whereby the suit for declaration with consequential relief of permanent injunction has been dismissed.

2. The above noted two appeals are being disposed of by this single judgment, having arisen out of the same dispute of the suit land. However, the facts are being derived from RSA No. 3641 of 2014.

3. The only argument raised by learned counsel for the appellant is that the property had been purchased by the father of the appellant. The suit land was an ancestral property and the defendant No.5 had no authority to alienate the same. Sufficient material has been produced to show that the nature of land was ancestral, however, both the Courts below have failed to appreciate the same. The sale deed dated 15.09.2003, was a result of fraud and the alleged sale was without consideration. In fact, plaintiff Gurpartap Singh is an illiterate person and his thumb impression was taken on the pretext that the mortgage deed was to be cancelled.

4. Heard.

5. The main argument of learned counsel for the appellant is that the property in question being ancestral could not be sold out and the sale deed is the result of fraud and the same is null and void, lacks merit. There is nothing on record to prove that the suit land was inherited by the plaintiff, Gurpartap

Singh and it was ancestral in nature. Rather, the plaintiff, Gurpartap Singh purchased 5 kanals of land as a co-sharer along with his grandfather, Mohinder Singh and others in equal shares, which has been clearly proved vide Ex.D1, copy of registered sale deed. No mutation of inheritance was produced to prove that the suit land was inherited by the plaintiff, Gurpartap Singh from his father and grandfather.

6. The plaintiff had alleged that the sale deed dated 15.09.2003 was result of fraud, however, no evidence in this regard has come on record to prove the fraud or misrepresentation. A bare perusal of Ex.P1 shows that the total sale consideration of Rs.2,20,000/- was received by the plaintiff, Gurpartap Singh himself before the Sub Registrar. Furthermore, the plaintiff had made statement in another litigation, wherein he had admitted that out of his share in the land, he had sold some of his land to respondent No.1, Shamsheer Singh, therefore, both the Courts below have rightly relied upon this statement which is sufficient to falsify the stand of the plaintiff.

7. On consideration of all the facts and material on record, this Court finds no scope to interfere with the well reasoned judgments of the Courts below. These are pure findings

of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for. Accordingly, both the appeals are dismissed.

03.03.2016

sumit.k

(JITENDRA CHAUHAN)
JUDGE