

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 13.11.2017****RSA No.2743 of 2016 (O&M)**

Paramjit Singh

...Appellant

Vs.

Nachhattar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashok Singla, Advocate, for the appellant.

Mr. A.S.Sandhu, Advocate, for the respondent.

RAJIV NARAIN RAINA, J. (ORAL)

Both the Courts below are concurrent that the suit deserves to be decreed. This is unsuccessful defendant's appeal to this Court having lost twice over.

The contention of Mr. Ashok Singla based on Order 2 Rule 2 CPC while referring to the earlier suit filed by respondent/plaintiff (Nachhattar Singh) in 2009 against appellant/defendant (Paramjit Singh) does not cut ice in view of the registered sale deed dated 04.10.1974 held by Nachhattar Singh over the suit property. Neither did the appellant claim a specific issue of bar of Order 2 Rule 2 of the CPC nor has the appellant/defendant or any other person ever challenged the sale deed dated 04.10.1974. It is settled that possession follows sale deed and if the sale deed is more than a 30 year old document on public record, then the rights of the plaintiff/respondent could not be disturbed in ownership over the suit land

described by the terms of the sale deed and its boundaries by any legally possible means. A presumption of truth attaches to the sale deed which has remained un-rebutted.

The appellant/defendant was unable to prove that his father purchased the suit property in 1974 out of joint funds and there was unity of ownership and common interest and the property was ancestral in nature. The evidence points firmly to the suit property being self acquired in the year 1974.

Consequently, I would not consider it appropriate to upset the judgments and decrees of the Courts below, when rendered after reading the pleadings and appreciating the evidence produced by the parties and thereupon forming an opinion on the admissible and relevant evidence or the lack of it, which formation of opinion is legally derivative from record and a plausible one which could be taken while decreeing the suit brought by a father against his son. Findings of fact are not meant to be disturbed by substituting opinion by reading the evidence in some other way so long as the findings are not perverse, arbitrary or illegal and a result of misreading of the evidence. Thus, the instant appeal is found to be without life and has to suffer dismissal. It is accordingly ordered.

13.11.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>