

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

RSA No. 5286 of 2015

Date of decision : 08.08.2017

Hardial Singh

...Appellant

versus

Balwinder Singh and others

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. G.S. Nagra, Advocate
for the appellant

RITU BAHRI , J. (Oral)

The appellant has come up in regular second appeal against the concurrent findings of facts recorded by both the Courts below whereby the suit filed by the plaintiff-appellant (herein after to be referred as 'the appellant') seeking a decree of declaration that he is owner of land measuring 16 kanals 17 marlas being ½ share of land measuring 33 kanals 15 marlas, out of land measuring 81 kanals 16 marlas, description of which is given in head note of the plaint, for further challenging the transfer deed dated 23.06.2005 executed by defendant No. 2 in favour of defendant No. 1 and transfer deed dated 23.06.2005 executed by defendant No. 3 in favour of defendant No. 2, to be illegal, null and void, was dismissed.

A bare perusal of the judgments shows that the appellant has not been able to prove the fact that land measuring 67 kanals situated in village Ghal Kalan, Tehsil and District Moga, was the ancestral property in the hands of defendant No. 2. The appellant has simply said that the land measuring 67 kanals situated in village Ghal Kalan, Tehsil and District

Moga was inherited by defendant Chanan Singh from his father, was held to be not sufficient to prove ancestral nature of the land. Further it was held that as regards the property situated in village Chak Tarewala measuring 126 kanals 15 marlas, it was purchased by defendant Chanan Singh from Government in the year 1963. It was not proved on record that Chanan Singh has purchased this property from the joint income of the family and thus property was not considered to be Joint Hindu Family property. Further the appellant separated from the joint family in the year 1984 and took his 1/4th share out of the total land measuring 193 kanals 15 marlas. Thus, it was held that Chanan Singh being exclusive owner of the property of his share, was fully competent to transfer the same in favour of his wife.

In view of the above factual position, both the Courts below had rightly held that the Chanan Singh and his wife were fully competent to transfer the property of their shares by way of transfer deed in question to defendant no. 1 and the appellant is having no right, interest in the property owned by his parents

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeal is dismissed.

08.08.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No