

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

RSA No. 5582 of 2015 (O&M)
Date of decision : August 28, 2017

Rama Rani

..... Appellant

v.

Nirmala and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Sarju Puri, Advocate
for the appellant.

Ajay Tewari, J (Oral)

This appeal has been filed against the judgment of the lower appellate Court reversing that of the trial Court and thereby decreeing the suit filed by the respondents.

The admitted facts are that Jaswant Rai was owner of the property and died intestate leaving behind six LRs. Husband of the appellant was one of the L.Rs being his son. He obtained a power of attorney in 1999 from his mother whereby she described herself as the exclusive owner of the entire property, and on the basis of that power of attorney, sold the property to his wife i.e the appellant by a registered sale deed in 2000. The case of the respondents-plaintiffs was that they were entitled to succeed to the share of Jaswant Rai and apart from that the mother had never executed any power of attorney in favour of the husband of the appellant and consequently they had sought a declaration that they

were owners to the extent of 5/6th share of the property left behind by Jaswant Rai. The case of the husband of the appellant (who died during the pendency of the suit) was that there were two oral family settlements by which all the sons and daughters relinquished their right in the property in favour of the mother and that is how the mother became the exclusive owner and then executed a power of attorney in favour of one of her sons.

The trial Court held that the husband of the appellant and the appellant were not able to prove the oral family settlements and dismissed the suit on the ground that the family settlements were not proved by the appellant and her husband but that was for the respondents to stand on their own legs and also held that the suit was barred by limitation since the original documents were sought to be challenged beyond three years. The lower appellate Court, however, took a correct view and held that once the appellant and her husband had set up a positive case that there were family settlements, onus lay upon them to prove the same and they had not led any evidence regarding the same and consequently held that once the family settlements were proved the mother could not become the exclusive owner of the property. As regards limitation, the lower appellate Court held that suit was not beyond limitation from the date of gaining knowledge.

Counsel for the appellant has argued that once the power of attorney was registered, there was no question of requiring notice thereon since registration is a notice to the world.

Be that as it may, the suit based on title cannot be dismissed on the ground of limitation. Counsel for the appellant has not been able to persuade me that the other findings recorded are either based on no evidence or are based on such misreading of evidence so as to render the

same so perverse as to be liable for interference under Section 100 of the CPC. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

August 28, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No