

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

**RSA-860 of 2014 (O&M)
Date of Decision : 26.10.2017**

Gurmeet Kaur and Ors.

....Appellants

versus

Daljit Singh and Ors.

....Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amit Arora, Advocate
for the appellants.

RAJBIR SEHRAWAT, JUDGE (ORAL)

The present appeal has been filed by the plaintiffs challenging the concurrent judgments and decrees passed by the Courts below; whereby the suit filed by the plaintiffs, seeking declaration of their ownership over 144 kanals 16 marlas of the land, being co-sharer in the suit property to the extent of 3/8th share, has been dismissed.

The brief facts of the case are that the plaintiffs filed a suit claiming that plaintiff No.1 is the widow of Sukhwinder Singh and plaintiffs No.2 to 4 were the minor sons and daughter of the Sukhwinder Singh. They, being legal heirs, are entitled to inherit the share of the above said Sukhwinder Singh, which happened to be 3/8th share in the joint khata of the land, as detailed in the Jamabandi for the year 2000-2001. It is further claimed that Sukhwinder Singh died intestate on 01.11.2000 and the plaintiffs were his only legal heirs. It is further claimed that Sukhwinder Singh was holding the suit land as ancestral property along with the plaintiffs. The defendants have been illegally raising claim over the property. The plaintiffs had requested defendants No.1 to 8 to admit their claim on the suit land but they refused to do so. It is further claimed that on enquiry by the plaintiffs, it was revealed that the defendants had purchased

18.10.1994, 20.12.1994, 13.07.1995, 04.05.1998, 07.08.1997 and 16.03.1994. Therefore, the plaintiffs had filed a suit challenging the above said sale deeds as illegal and void being result of forgery and impersonation. It was claimed that Sukhwinder Singh never signed or thumb marked the said sale deeds. It was further pleaded that Sukhwinder Singh was not competent to execute the sale deeds as he was holding the suit land as ancestral property.

Upon notice, defendants No.1 to 5 put in appearance and filed separate written statements. On merit it was claimed that Sukhwinder Singh was owner of the land to the extent of 3/8th Share out of the land measuring 144 kanals 16 marlas and the said Sukhwinder Singh sold the land measuring 43 kanals 9 marlas, in their favour, through various sale deeds and delivered the possession thereof to the vendees/defendants. Now the defendants are owners in the possession of the suit property being the purchasers and they were now the co-sharer in the joint khewat to the extent of 43 kanals 9 marlas. It was further claimed that the land in question was earlier mortgaged by Sukhwinder Singh with various persons. Therefore, it was further claimed that all the original mortgage deeds were got cancelled and the land was got redeemed. Thereafter, Sukhwinder Singh had sold the land to the defendants through various sale deeds, as detailed above. It was further claimed that they have purchased the land for valuable consideration.

The parties led their respective evidence.

After hearing the parties and appreciating the evidence, the trial Court dismissed the suit. While dismissing the suit, the trial Court recorded a

finding that neither the plaintiffs have been able to prove the ancestral nature of the property nor to prove the illegality in the sale deeds.

On the other hand, the defendants have been able to prove the sale deeds executed in their favour by examining the attesting witnesses.

Aggrieved against this judgement and decree the present appellants/plaintiffs had filed the appeal before the lower Appellate Court. However, lower Appellate Court also dismissed the appeal filed by the plaintiffs. The lower Appellate Court had also recorded the finding that the sale deeds have been duly proved by the defendants. On the other hand, the plaintiffs have not been able to prove that the sale deeds are the result of fraud or impersonation, as claimed by them. No evidence, whatsoever, was led by the plaintiffs to prove the elements of fraud, misrepresentation or the impersonation in execution of the said sale deeds. It was further recorded that the reliance of the appellants/plaintiffs on the entry in the Jamabandi is of no help to the plaintiffs because the sale deeds have been duly proved. The mere entry in the Jamabandi would not be sufficient to discard the ownership of the purchasers for valuable consideration. Resultantly, the appeal was also dismissed.

Aggrieved against the judgment and decree of the lower Appellate Court, the present appeal has been filed.

Having heard the learned counsel for the appellants this Court is of the considered opinion that the Courts below have not committed any illegality or perversity in recording the findings or in passing the judgment and decree in the present case. The plaintiffs have claimed that the suit property is the ancestral one and Sukhwinder Singh had no capacity to sell

the land in question. However, no evidence, whatsoever, has been led to substantiate the nature of the property to be ancestral. Still further, the claim of the plaintiffs in the Court was, that there has been fraud and impersonation in the alleged sale deeds. However, even on this aspect, no evidence has been led by the plaintiffs. Therefore, they have failed to substantiate, even the plea of forgery and impersonation in the sale deeds. On the other hand, the defendants have led voluminous evidence in the form of attesting witnesses and other documentary evidence to prove the validity of the sale deeds in their favour. The Courts below have rightly appreciated the evidence in this regard. Hence, it is proved on record that the sale deed executed in favour of the defendants were valid, and were executed for valuable consideration. In such a situation mere entry, which continued in the Jamabandi, is not sufficient to discard the title of the defendants.

No other arguments was raised.

In view of the above, the present appeal fails and the same is dismissed being devoid of any merits.

26th October, 2017

Manju

**(RAJBIR SEHRAWAT)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No