

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

RSA No.4048 of 2017 (O&M)

Date of Decision: 04.09.2017

Kalyan Singh

... Appellant

Versus

Sant Singh (deceased) through his LRs.

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Keshav Partap Singh, Advocate,
for the appellant.

ANIL KSHETARPAL, J. (ORAL).

Plaintiff-appellant is in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration, permanent injunction and recovery. The plaintiff had challenged the transfer deed/release deed executed by his father in favour of his brother Anirudh dated 29.05.2007 on the ground that the property is joint Hindu family coparcenary property and, therefore, the plaintiff had right in the property by birth.

Both the Courts below have concurrently found that the property is not a coparcenary property as Ganga Sahai had gifted the property to his sons Ami Lal and Bohru. Therefore, Bohru became exclusive owner of the property. The Courts below have further found that the plaintiff has failed to prove any cogent evidence on the record to prove the existence of coparcenary.

I have heard the learned counsel for the appellant at length.

It is not in dispute that Ganga Sahai had gifted the property in favour of his two sons i.e. Ami Lal and Bohru. This property in the hands of Bohru was his individual property. Therefore, the finding of the Courts below that the plaintiff has failed to prove the property to be a joint Hindu family coparcenary property, cannot be said to be erroneous.

Learned counsel for the appellant has further argued that in the release deed itself the property has been referred as ancestral property.

This would not improve the case once it is established before the Court that the property is not a coparcenary property.

In view of the discussion made above, I do not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

The appeal is dismissed

(ANIL KSHETARPAL)
JUDGE

04.09.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No