

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

352

RSA No.1594 of 1989 (O & M)
Date of Decision:22.01.2018

Jagir Ram and others

...Appellants

Versus

Kura Ram (deceased) through LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Monika Arora, Advocate for
Mr. Pritam Saini, Advocate
for the appellants.

Ms. Kiran Bala, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Defendants-appellants are in the regular second appeal against the judgment passed by the learned First Appellate Court, decreeing the suit filed by the plaintiff for declaration that he is owner in possession of land measuring 1 kanal and 7 marlas being half share of total land measuring 2 kanals and 14 marlas.

In the written statement, the defendants contested the suit claiming that the plaintiff had sold 3 marlas land vide separate sale deeds (unregistered) dated 05.11.1977 Ex.D-1 and Ex.D-2 and hence they are owners in possession.

Learned trial Court dismissed the suit, whereas the learned First Appellate Court has held that sale deed Ex.D-1 and Ex.D-2 are not admissible as these are un-registered documents.

It may be significant to note here that the sale consideration of the alleged two sale deeds dated 05.11.1977, shown to be Rs.99/- each.

Learned First Appellate Court has held that in view of two such

sale deeds, no title passes in favour of the defendants.

I have heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Learned counsel for the appellants has very vehemently argued that sale deeds have been proved on file and since both the sale deeds are of the consideration below Rs.100/-, therefore, sale deed could be executed by unregistered documents. She has further submitted that the suit filed by the plaintiff was barred by time.

On the other hand, learned counsel for the respondent-plaintiff has asserted that in fact, the sale deeds were result of fraud and misrepresentation and the plaintiff in his plaint had himself pleaded this fact.

In any case, it is not in dispute that the property to be sold was valuing more than Rs.100/-. Such property can only be sold through a sale deed duly registered under Section 17 of the Registration Act. In the present case, the alleged sale deeds are not registered. In view thereof, no title passes in favour of the defendants. Next submission of learned counsel is with regard to limitation. Plaintiff had filed a suit for declaration claiming that he is owner in possession. Such suit cannot be held to be beyond limitation particularly when the plaintiff is owner of the property and the defence put-fourth by the defendants is against law.

In view thereof, there is no scope for interference.

Hence, the regular second appeal is dismissed.

22.01.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No