

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

**RSA No.3103 of 1994 (O&M)
Date of Order:3rd April, 2018**

Surjit Singh

..Appellant

Versus

Kehar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None.

ANIL KSHETARPAL, J.

Defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

Plaintiff-respondent filed a suit for declaration to the effect that the plaintiff is owner in possession of 8/21 share of the land described in the plaint. Plaintiff also prayed that defendants no.11 and 12 have sold more than their share in the joint land and hence sale beyond the share would not have any adverse effect on their rights. Various defendants contested the suit and it was pleaded that defendants no.11 and 12 have sold the land according to their share.

Both the courts below after appreciating the evidence available on the file, decreed the suit filed by the plaintiff and held that the plaintiff is owner in possession of 7/18th share out of total property and sale deeds executed by defendants no.2, 11 and 12 are null and void to the extent that these sale deeds are in excess of their shares. The appeal filed by the first appellate court was also dismissed after re-appreciating the evidence available on the file.

Since, counsel for the parties have chosen not to appear when

the case was called for hearing, therefore, this court has gone through the grounds of appeal.

A reading of the grounds of appeal shows that the appellant has claimed that he is a bonafide purchaser. It has further been pleaded that the plaintiff is estopped from claiming relief against the defendant-appellant. Further reference has been made to a Will dated 01.03.1961, which was sought to be produced by way of additional evidence before the first appellate court.

In the considered opinion of this court, it is well settled that no one can pass a better title than what he himself has. Shares of all the co-owners are specified in the revenue record. The sale by one of the co-owner in excess of its share would not bind the other co-owners. Such sale would not effect the rights of other co-owners. Such being the position, no exception can be taken to the findings of the courts below.

Still further, the learned first appellate court has discussed the evidence in detail. The first appellate court has also noticed that the Will, which was sought to be produced by way of additional evidence is beyond pleadings.

Such being the position, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by the courts below.

The regular second appeal is dismissed.

3rd April, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No