

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

RSA No.7 of 2008 (O&M)
Date of decision: 15.12.2018

Net Ram and others

..... Appellants

Versus

Khan Chand and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Jagdish Manchanda, Advocate
for the appellants.

Mr. Sandeep Khunger, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the regular second appeal against the judgment passed by the learned First Appellate Court reversing the judgment of the trial Court.

Plaintiffs are two sons and second wife of Bhagwan Sahai, who have filed a suit for declaration challenging validity of the decree suffered by Bhagwan Sahai on 22.01.1991. It will be noted that through the aforesaid decree on the basis of family settlement, Smt. Dhora was acknowledged owner of 58 kanals and 7 marlas whereas Smt. Rajwati, the second wife-plaintiff No.3 was acknowledged owner of 21 kanals and 10 marlas and Satbir-plaintiff No.2 son of Bhagwan Sahai from Rajwati was acknowledged owner of 137 kanals and 19 marlas. The decree to the extent which went in favour of Dhora was challenged on the ground that the property is co-parcenary joint Hindu family property and therefore,

Bhagwan Sahai has no right to suffer the decree.

It will be noted that Smt. Dhora had executed a general Power of Attorney in favour of Amarwati daughter of her brother Keshav on 09.03.1998. Smt. Amarwati on the strength of general Power of Attorney executed two registered sale deeds. One with respect to 16 kanals dated 26.06.1998 in favour of defendant No.1 whereas another sale deed was executed on 18.03.1998 with respect to the land measuring 41 kanals and 17 marlas. It will be noted that the sale deed dated 18.03.1998 was subject matter of challenge in a separate suit which previously came to be considered in RSA No.5514 of 2014, dismissed by this Court while confirming the finding of the Court that the property is not joint Hindu family co-parcenary property. It will be noted that the special leave petition against the aforesaid judgment has also been dismissed.

In the present case also, the challenge to the decree and subsequent sale is on similar grounds. Apart from the fact that the judgment passed against the appellants shall be binding on the appellants, this Court has also heard learned counsel for the parties at length. No doubt, learned counsel made a sincere attempt, however, failed to point out any substantive error in the judgment passed by the learned First Appellate Court.

In view thereof, there is no ground to interfere with the judgment passed by the learned First Appellate Court.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

15.12.2018
Dinesh Bansal

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No