

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-2571-2010 (O&M)
Date of decision 1.2.2018

Smt. Tarowati and ors

..... Appellants.

Versus

Kirpal Singh and ors

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. J.S. Cooner, Advocate for the appellants.

Mr. Kanwal Goyal, Advocate for respondent No. 1.

Mr. Diwan S.Adlakha, Advocate for respondent No. 3.

M/s Arihant Jain, and Arun Jindal, Advocate
for respondent No. 6.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present regular second appeal is the order dated 28.5.2010 passed by learned Additional District Judge-I, Ambala, affirming the judgment and decree dated 26.5.2004, passed by learned Civil Judge (Junior Division), Ambala, vide which the suit filed by the plaintiffs-respondents, Kirpal Singh and Mohinder Singh was decreed to the effect that they are joint owners in equal share of the property in dispute fully detailed in the head note of the plaint and the plaintiffs are declared as owners and in exclusive possession of the house and Bara marked as ABCD

in the site plan and defendant No. 1 & 9 to 11 have got no right and interest in the property and the sale deeds executed by defendant No. 1 in favour of defendants No. 9 to 11 in respect of agriculture land and Bara are declared as illegal, null and void and not binding upon the rights of the plaintiffs and defendants No. 2 to 8 and plaintiffs are also entitled to relief of joint possession of the land in dispute. Defendants No. 9 to 11 were restrained from making further construction or alienation of the disputed property.

I have heard learned counsel for the parties and perused the case file.

It comes out that Gurdial Singh (deceased), father of the plaintiffs namely Kirpal Singh and Mohinder Singh, was the original owner of the land. Gurdial Singh was allegedly murdered and an FIR was also got registered against his sons-plaintiffs namely Kirpal Singh and Mohinder Singh. However, in the said case, they had been acquitted by the trial Court. Plaintiffs claimed the disputed property on the basis of natural succession. It further comes out that defendant No. 1-Paramjit Singh son of Mohinder Singh-plaintiff sold the land to defendants No. 9 to 11 vide two sale deeds dated 29.9.1995 and 4.10.1995. Defendant No. 1 in the said suit, set up a registered Will No. 14 dated 28.5.1992.

After hearing learned counsel for both the parties, plea of defendants No. 1 to 9 being bona fide purchaser was discarded and suit was decreed. The said findings of the learned trial Court were upheld in appeal by lower Appellate Court vide order dated 28.5.2010.

After going through the findings recorded by both the Courts below, this Court is of the view that findings of fact have been recorded. Another suit between the legal heirs of Gurdial Singh was pending which was decreed. Plaintiffs in the present suit were held to be entitled to property on the basis of natural succession. Present appellants had purchased the property during the pendency of the litigation, therefore they were rightly held not to be bonafide purchaser. The judgment in the other suit between the legal heirs have already become final. There are concurrent findings of the two Courts below.

Consequently, I do not find any illegality or irregularity in the order passed by two Courts below.

Present regular second appeal is dismissed accordingly.

(KULDIP SINGH)
JUDGE

1.2.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No