

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

-.-

RSA No. 4115 of 2011 (O&M)

Date of decision: 16.02.2018

Dara Singh

..... Appellant

Versus

Ramesh Kumar and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sanjiv Sheoran, Advocate
for the appellant

Mr. R S Malik, Advocate
for respondent No. 1

Mr. Ajit Sihag, Advocate
for respondent No. 2

-.-

Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts below whereby suit filed by the appellant along with his co-plaintiff for declaration with consequential relief of permanent injunction by challenging sale deed dated 22.12.2003 executed by their father Hari Ram in favour of Ramesh Kumar - respondent No. 1 was dismissed by the trial Court and judgment and decree passed by the trial Court were affirmed in appeal by the Additional District Judge Sonapat.

The main controversy involved in the present *lis* is '*whether the suit land subject matter of aforesaid sale deed is joint Hindu Family coparcenary property in the hands of Hari Ram and the plaintiffs are*

entitled to a share by way of birth being the coparcener'. The second issue raised by the plaintiff is that sale deed dated 22.12.2003 executed by Hari Ram in favour of defendant No. 1 is without consideration, obtained by fraud and the property was sold without legal necessity.

Counsel for the appellant has failed to invite attention of the Court towards any evidence to substantiate his contention that suit land was joint Hindu Family Coparcenary property in the hands of Hari Ram. This apart, it has been amply proved on record that suit land was sold by Hari Ram in order to pay off mortgage amount as Hari Ram mortgaged land in question for a sum of Rs.1,50,000.00. Analyzed from any angle, the present appeal does not give rise to a substantial question of law to be decided in regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed, leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

16.02.2018
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No