

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

RSA No.4633 of 2011 (O&M)

Date of decision: 21.12.2018

Soma Devi

..... Appellant

Versus

Joginder Pal

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. M.K. Bali, Advocate
for the appellant.

Mr. Vijay Lath, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below dismissing the suit filed by her seeking possession of 1/4th share in the property.

The plaintiff claiming to be widow of Harbans Singh had challenged three registered gift deeds and one sale deed executed by late Sh. Harbans Singh-her husband died on 18.10.1999. It has come on record that the relationship between the plaintiff and Harbans Singh were not cordial and Harbans Singh had filed a petition for divorce against the plaintiff-appellant which of course was dismissed on 24.09.1997.

Learned counsel for the appellant has submitted that in one of the gift deed, it has been mentioned that he does not have any child and his wife has died and the plaintiff who was second wife has not been disclosed.

No doubt, the factum of plaintiff-appellant being wife has not

been disclosed in the gift deed but that would not make a registered document void. The gift made in favour of the nephew is established on the file. A factually incorrect fact which is totally unrelated with the gift would not make a registered gift deed to be void on this sole ground. The reason for non-disclosure of name of the plaintiff-appellant is apparent as the divorce proceedings filed by Harbans Singh were pending against the plaintiff-appellant.

Learned counsel for the appellant further submitted that in absence of any issue on the validity of the Will executed by late Sh. Harbans Singh, the Courts were not justified in recording a finding. No doubt, there is no issue framed on the validity of the Will, however, the parties were alive to the dispute and they had led evidence to prove that fact. Still further, it is admitted by learned counsel for the appellant that Harbans Singh was not owner of any property at the time of death, therefore, the findings on the validity of the Will would not make any difference because he was not owner of any property at the time of his death.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

The pending miscellaneous application, if any, shall stand disposed of accordingly.

Appeal is dismissed.

21.12.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No