IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210 **RSA-2855-2012 (O&M)**
Date of Decision : 19.9.2018

Gurtej Singh **....Appellant**

vs.

Jasbir Singh and others **....Respondents**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.H.R. Bhardwaj, Advocate for the appellant.

Mr. G.S.Bhatia, Advocate for the respondent No.1.

None for respondent No.2.

None for respondents No. 3 and 4.

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AJAY TEWARI, J. (Oral)

CM-7666-C-2012

For the reasons recorded, the application is allowed. Delay of 2 days in filing the appeal is condoned.

Main Case

This appeal has been filed against the judgment and decree of the Lower Appellate Court reversing that of the Trial Court thereby dismissing a suit filed by the appellant.

The appellant and his two brothers had filed a suit challenging the sale deed of 21 Bighas 10 Biswas made by their father Gurnam Singh-respondent No.2 on 21.10.1993. The plea of the respondents was that the land was not ancestral in the hands of respondent No.2 and in any case any injunction order which was not served upon him could not bind him. The Trial Court held that actually two brothers of the appellant (who were major) had

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agreed to the sale and consequently, dismissed the suit filed by them but as regards the appellant held that on the date of sale the appellant was minor and his mother who had agreed on his behalf was not competent to do so and consequently, decreed the suit to the extent of 1/3 share claimed by the appellant. The respondents had filed appeal. The Appellate Court held that the appellant was not able to prove that the land in dispute was ancestral. He further held that prior to the sale in question the respondent No.2 had alienated the land measuring 52 Bighas and 9 Biswas without any objection and no challenge was made to those sale deeds.

I also find that though the land was originally joint between the respondent No.2 and his brother which was partitioned on 10.2.1982. Further I find that apart from the present sale deed respondent No.2 had made another sale of 5 Bighas and 17 Biswas in 1989 which was also not challenged. The Appellate Court also noticed that the mother of the appellant had sought permission from the Guardian Court to make some sales and those sales were also made and consequently, dismissed the suit.

In the totality of the circumstances, I am not persuaded to hold that the findings of the Appellate Court are either based on no evidence or on such perverse misreading of the evidence so as to render them liable for interference in second appeal.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No

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