

Plaintiff Harmanpreet Singh (minor) has filed a suit for joint possession against his grandfather Gurdev Singh, Baljit Kaur wife of Kulwinder Singh and Kulwinder Singh son of Sohan Singh, claiming that he is grandson of defendant No. 1. He alongwith his father and uncles are members of Joint Hindu Family coparcenary property alongwith defendant No. 1 (Karta). The suit property is joint which has been inherited by

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defendant No. 1 from his forefathers. Two sons of defendant No. 1, namely, Harjinder Singh and Jagdeep Singh (father of plaintiff) are married while other two are unmarried. Defendant No. 1 fell in bad habit of drinking alcohol in routine and is selling the land without legal necessity. Respondents No. 2 and 3 have got no concern and started claiming that agreement to sell in their favour which may be result of drunkard condition of defendant No. 1.

I am of the view that there are concurrent findings of two Courts below. Plaintiff during lifetime of his father cannot maintain a suit that alienation sought to be made by his grandfather is illegal. In suit, nothing is mentioned about agreement to sell. Regarding specific performance of agreement to sell, suit was filed by respondent No. 2 which was decreed. Said judgment and decree and alienation has not been specifically challenged. It appears that defendant No. 1 in addition to contesting suit for specific performance against him, got a suit filed through his grandson. There are concurrent findings of two Courts below. There is no ground to interfere. Consequently, regular second appeal is dismissed. Since main case has been dismissed, therefore, pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

23.4.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No