

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

RSA No.2516 of 2013

Date of Decision.07.03.2018

Ram Lal Tantia

.....Appellant

Vs

Vijay Kumar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rai Singh Chauhan, Advocate
for the appellant.

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AMIT RAWAL J.(ORAL)

The present appeal at the instance of the appellant-plaintiff is directed against the judgments and decrees of the Courts below whereby the suit claiming declaration with regard to the property measuring 1182 kanals 15 marlas of Geeta Devi had been dismissed under Order 17 Rule 3 of the Code of Civil Procedure.

The appellant-plaintiff instituted the aforementioned suit claiming the relief on the premise that father of the plaintiff during his life time had gifted the aforementioned property to Geeta Devi for the purpose of maintenance in the year 1950 i.e. 30.07.1950. On demise of Geeta Devi on 02.04.1973, the property was liable to be reverted to the appellant-plaintiff but Geeta Devi during her life time had executed the Will dated 14.02.1971 in favour of defendant No.3 and mutation had been effected. It was the aforementioned mutation which was challenged by filing the suit in the year 1998. The trial Court dismissed the suit on the premise that despite recording of the examination-in-chief, the plaintiff did not come forward for cross-examination, much less, examined any witness and the appeal laid before the lower Appellate Court also met with the same fate.

appellant-plaintiff submitted that the plaintiff had been negligent in pursuing the matter, however, in the interest of justice, he may be given an opportunity to lead evidence, subject to terms and conditions which this Court may deem fit.

I have heard learned counsel for the appellant, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Chauhan. The appeal had been filed in the year 2013 and till 2018, it is lingering in preliminary hearing, though at one point of time it was dismissed for non-prosecution.

Be that as it may, the plaintiff had been negligent before the trial Court also as the suit was filed in the year 1998 and kept pending almost upto 2011 but he did not come forward to lead evidence. Even otherwise, the property given to the female for maintenance during her life time would result into absolute ownership as per the provisions of Section 14(1) of the Hindu Succession Act. This is what the import of the judgment of Hon'ble Supreme Court in Vaddeboyina Tulasamma and others Vs. Vaddeboyina Sesa Reddi 1977(3) SCC 99.

In view of the aforementioned, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal stands dismissed.

(AMIT RAWAL)
JUDGE

March 07, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No