

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 129 of 2016(O&M)

Date of Decision: 24.9.2018

Raghbir

---Appellant

versus

Laxmi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Brijender Kaushik, Advocate
for Mr. Rahul Vats, Advocate
for the appellant

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit for declaration and permanent injunction filed by the appellant -plaintiff and his co-plaintiffs restraining the contesting defendant from alienating the suit property or raising construction therein and interfering in peaceful possession of the plaintiffs over the suit land was dismissed by the trial court vide judgment and decree dated 15.11.2011 whereas challenge to findings of the trial court in appeal preferred by the plaintiffs including the appellant remained unsuccessful.

The plea of the plaintiffs is that land comprising Khewat No. 78 Khatoni No. 96 killa No. 95 measuring 12 marlas is the ancestral Hindu joint family coparcenary property of the plaintiffs and defendants No. 1 to 4 which was donated to their ancestor Mohan Lal about 100 years ago in which forefathers of the plaintiffs and defendants No. 2 to 5 are owners in possession. It is further averred that the plaintiffs are owners in possession

of suit property to the extent of half share and defendants No. 2 to 4 of the remaining half share. In the revenue record, Hardwari Lal, defendant No. 2 is shown as owner of the suit property on the basis of which sale deed No. 344 dated 7.5.2002 was executed by defendant No. 2 in favour of defendant No. 1 which is wrong, null and void, therefore, liable to be set aside.

Both the courts have consistently held and negated plea of the plaintiffs including the appellant that suit property is joint Hindu family coparcenary property in the hands of Sh. Ram Karan, father of the appellant and grand father of his co-plaintiffs, therefore, plea of the plaintiffs that they are entitled to half share in the suit property being successors-in-interest of Mohan Lal, is not tenable.

Counsel for the appellant has failed to point out any materials on record to substantiate plea of the appellant and his co-plaintiffs that suit land is joint Hindu family coparcenary property inherited by Ram Karan from his father Mohan Lal and so on. That being so, I do not find an error much less perversity in findings recorded by the courts, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs. As the appeal has been decided on merits, application for condonation of delay of 60 days in refiling the appeal is of academic relevance only.

(Rekha Mittal)
Judge

24.9.2018

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