

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

RSA No.180 of 2016
Date of decision: 20.04.2018

Radhey Shyam

..... Appellant

Versus

Krishan Baldev and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anish Setia, Advocate
for the appellant.

Mr. Gautam Kaile, Advocate, for
Mr. Rajiv Sharma, Advocate
for respondent No.2.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration with consequential relief of permanent injunction challenging the sale deed executed by defendant No.1 in favour of defendant No.2 on 03.03.2011. Plaintiff claimed that all the properties are joint between the parties and therefore, defendant No.1, who was his brother had no right to sell exclusively the specified property. In the written statement, defendant No.1 pleaded that father was owner of three properties and three properties were given to three sons and all of them have raised the construction over the separate properties. Defendant No.2-purchaser claimed that he is the bona fide purchaser. Defendant No.3 who was third brother has stated in the written

statement that the parties are living separately since 1972. Both the Courts below have examined the evidence and have found that the material admissions have been made by the plaintiff to the effect that the brothers are living separately for the last 10 years and houses of all the three brothers are separate having 2-3 streets in between. The plaintiff has even went to the extent of admitting that two rooms and three shops which are subject matter of the sale deed was share of Krishan Baldev, the vendor.

Still further, the Courts below have relied upon the admission made by the sister of the parties Chanderwati who appeared as PW-3. She has stated that all the three brothers are living separately.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Although, learned counsel for the appellant has very sincerely made an attempt to persuade this Court to arrive at a different conclusion, however, in view of the admissions made by the plaintiff and his sister, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

20.04.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No