

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

RSA No.1984 of 2016 (O&M)

Raj Rani and Anr.

...Appellant

Versus

Rajinder Kumar and Ors.

....Respondents

Date of Order: 13.12.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surinder Gaur, Advocate for the appellants.

AMIT RAWAL, J (ORAL)

Appellants-defendants are in second appeal against the concurrent judgments and decrees of both the courts below whereby the suit of the respondents-plaintiffs for declaration and permanent injunction has been decreed.

Respondent-plaintiff claimed aforesaid relief on the premise that a plot measuring 180 sq yards was owned by Shyam Lal Dhiman, which was purchased by Parveen Kumar, the plaintiff, defendant No.2-Tirath Ram and Sanjay Kumar in different shares. Plaintiff and defendant No.2 sold 35 sq yards to defendant No.5 vide sale deed dated 20.1.2005. Parveen Kumar and Sanjay Kumar sold their shares i.e 85 sq yards to defendant Nos.3 & 4 vide sale deed dated 23.6.2005 and similarly, defendant Nos.2 to 4 sold 140 sq yards to defendant No.1 vide sale deed dated 25.5.2006, which was result of fraud and misrepresentation qua share of the plaintiff i.e 27-1/2 sq yards as defendant Nos.2 to 4 were co-owners to the extent of 112-1/2 sq yards

and in essence, the sale was in accordance with their shares.

Upon notice, defendants opposed the suit by claiming the plea of bonafide purchaser.

Learned counsel for the appellants submitted that the courts below have erroneously decreed the suit as the suit was filed in the year 2007 whereas sale deed pertains to year 2005 and 2006. There is already partition amongst co-sharers.

I am afraid that the said argument is not sustainable as the sale deed would reflect that the total area of plot is 180 sq yards and their share holdings was not more than 112-1/2 sq yards and therefore sale of excess area was 27-1/2 sq yards. Total of 140 i.e 112-1/2 sq yards plus 27-1/2 sq yards comes to 140 sq. yards.

In view of aforesaid, no illegality or perversity has been committed by both the courts below much less no substantial question of law is involved in the present appeal.

Dismissed.

December 13, 2018
manoj

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No