

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

**RSA No.2684 of 2016 (O&M)
Date of Decision.30.11.2018**

Ranjit Singh

...Appellant

Vs

Surjit Kaur (deceased) through LRs and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Parvinder Singh, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.7173-C of 2016

For the reasons stated in the application, delay of 23 days
in filing of the appeal is condoned.

Application is allowed.

RSA No.2684 of 2016

The regular second appeal is directed against the
concurrent finding of fact whereby the suit for declaration and
permanent injunction laying challenge to the sale deed dated
15.02.2005 executed in pursuance to the judgment and decree dated
26.09.1994 by defendant No.1 in favour of defendant No.5 in suit for
specific performance, has been dismissed.

The plaintiff grandson of defendant No.1 alleged that
owing to the family settlement, property had fallen to his share and in
such circumstances, the grand mother could not have alienated the
property in the manner and mode.

The aforementioned suit was contested by defendant

No.1 but expired during the pendency of the suit and defendant Nos.2 to 4 proceeded ex parte. However, defendant No.5 contested the suit on the premise that defendant No.1 had entered into agreement dated 19.07.1988 and when the part performance was refused, decree for specific performance was passed, which attained finality.

Mr. Parvinder Singh, learned counsel appearing on behalf of the appellant submitted that the Courts below have gravely erred in not appreciating that defendant No.1 did not deny family settlement and in such circumstances, right which had already accrued in favour of plaintiff could not have been taken away by virtue of the decree aforesaid. The transaction was thus liable to be set aside.

I am afraid aforementioned argument is not sustainable as apparently it appears to be a case of collusion. The suit was filed only in the year 2007 after two years of execution of the sale deed in pursuance of decree dated 26.09.1994. The non-contest of defendant No.2 before the court below is also testimony to that effect.

In view of the aforementioned observations, I do not subscribe to the arguments raised by learned counsel for the appellant to form a different opinion than the one already arrived at by both the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The regular second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 30, 2018
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No