

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of decision: 23.05.2018

1. RSA No.305 of 2016

Gurdeep Singh

..... Appellant

Versus

Shingara Singh

..... Respondent

2. RSA No.1341 of 2016

Shingara Singh

..... Appellant

Versus

Gurdeep Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ramesh Sharma, Advocate
for the appellant (in RSA No.305 of 2016).

Mr. L.S. Mann, Advocate
for the respondent (in RSA No.305 of 2016).

ANIL KSHETARPAL, J. (ORAL)

Vide this judgment, I shall be disposing of two appeals bearing RSA No.305 of 2016 titled 'Gurdeep Singh Vs. Shingara Singh' and RSA No.1341 of 2016 titled 'Shingara Singh Vs. Gurdeep Singh' which are connected.

Both the parties are in appeal against the judgment passed by the learned First Appellate Court.

The plaintiff (Shingara Singh) who is appellant in RSA No.1341 of 2016 filed a suit for possession of land measuring 8 marlas, 7

sarsai and 12 sq. feet after removing the construction and malba over the said area. It is admitted fact between the parties that Bhagta, the grandfather of Shingara Singh was allotted the land measuring 10 marlas and 5 sarsai in the year 1965. After the death of Bhagta, the property was inherited by his two sons i.e. Sarwan Singh and Parkash Singh. Sarwan Singh became owner of 5 marlas and 2½ sarsai and 9.5 sq. feet. Sarwan Singh in a family settlement transferred the land measuring 5 marlas in favour of Shingara Singh-plaintiff and the aforesaid family settlement was acknowledged by a Civil Court decree dated 07.03.1998 in a civil suit titled as 'Shingara Singh Vs. Sarwan Singh'. The defendant-appellant in RSA No.305 of 2016 claims that Sarwan Singh sold 2½ marlas of land to the defendant vide sale deed dated 16.11.2007. Learned First Appellate Court has found that since on the day, the alleged sale deed in favour of defendant-Gurdeep Singh is alleged to have been executed, Sarwan Singh was not owner of 2½ marlas, therefore, as per the sale deed, title of land measuring 2½ sarsai and 9.5 sq. feet area only stood transferred. At the cost of repetition, Sarwan Singh was owner of 5 marlas, 2½ sarai and 9.5 sq. feet. He transferred to Shingara Singh the land measuring 5 marlas, therefore, he was left with only 2½ sarsai and 9.5 sq. feet land. The learned First Appellate Court after noticing this fact has decreed the suit filed by the plaintiff-Shingara Singh to the extent of 5 marlas only.

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

Learned counsel for the appellant in the case of Gurdeep Singh has submitted that no evidence has come on record that Sarwan Singh and

Parkash Singh succeeded to the property of Bhagta to the extent of 5 marlas 2½ sarsai and 9.5 sq. feet each. However, learned counsel for the respondent has pointed out that Gurdeep Singh-appellant when appeared in the evidence has specifically admitted this fact.

Learned counsel for the appellant has further argued that the parties are co-sharers and therefore, the suit for possession could not be decreed. Dispute in the present case is not with respect to agriculture property. It is an urban property where the property was sold with specific boundaries. In these circumstances, the learned trial Court was in error in returning a finding that the parties are co-owners. The sale in favour of Gurdeep Singh, the defendant-appellant is not with respect to a share in the property. Similarly, the decree in favour of Shingara Singh is also with regard to specific portion duly identified by property situated on all four sides.

In view thereof, there is no scope for interference with the judgments passed by the learned First Appellate Court.

Both the appeals are dismissed.

23.05.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No