

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

RSA No. 1878 of 2015
Date of decision : November 15, 2018

Smt. Maya Devi @ Dhan Kaur and another

..... Appellants

Versus

Sh. Mahender and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajesh Lamba, Advocate
for the appellants.

Mr. Sachin Mittal, Advocate and
Mr. Amit Jain, Advocate
for the respondents-caveators,

AMIT RAWAL, J (oral).

The appellants-plaintiffs have not been successful in the suit claiming declaration viz-a-viz release deed dated 19.8.2008 as well as execution of sale deed by defendant No.2-Dharam Singh in favour of defendant No.1.

The suit aforementioned was filed on the ground that the suit land at the hands of Dharam Singh was ancestral, therefore, plaintiff had right by birth. Having opposed the nature and character of the suit land stating that it was a self acquired property, therefore, the plaintiff did not have any pre-existing right. Plaintiffs have brought on record various revenue records in the shape of jamabandi, Intkal etc.and so did the defendants.

On the preponderance of evidence, the trial court partly decreed the suit and appeal preferred before the lower appellate court by

Learned counsel appearing on behalf of the appellants submitted that there is recital of nature and character of the property in the release deed which reflects the property as ancestral. The onus to prove the same was upon the defendants and to rebut that it was a self acquired property.

I have heard learned counsel for the appellant and appraised the paper book.

There is no substance in the argument of the learned counsel for the appellant as the revenue record referred to above did not establish on record that Dharam Singh has got the property from his grand father and Rohtash Singh being son of Dharam Singh had a right by birth being fourth in lineage. It is the requirement of law to prove on record the revenue excerpt containing the pedigree table to establish such assertions. Dharam Singh defended the action of release deed. Once it has been established that the property was not ancestral the release deed during the life time of the father cannot be challenged. All the aspects have been examined by the lower appellate court.

I do not find any ground to take a different opinion. The argument of learned counsel for the appellant has not been able to cut ice to bring the finding of the lower appellate court within the realm of illegality and perversity. No ground for interference is made out. The second appeal stands dismissed.

(AMIT RAWAL)
JUDGE

November 15, 2018

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Whether speaking/reasoned

Whether Reportable

Yes/No

Yes/No