

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

RSA No.3626 of 2016(O&M)

Date of decision: 25.7.2018

Baljinder Singh

....Appellant

VERSUS

Kashmir Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. N.K. Manchanda, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against concurrent findings recorded by the Courts whereby challenge to sale of land measuring 31 kanal by Kashmir Singh in view of specific performance of agreement to sell dated 17.11.1999 set up by respondent No.12 in Civil Suit No.129-1 of 15.06.2001 decreed on 04.03.2004 has been challenged primarily on the ground that suit property was Joint Hindu Family Coparcenary Property in the hands of Sh. Kashmir Singh, grand-father of the appellant/plaintiff, therefore, the said sale is liable to be set aside being without legal necessity and benefit of estate.

Counsel for the appellant would urge that Hazara Singh, great-grandfather of the appellant was the original owner of the property which was inherited by his two sons namely Kashmir Singh and Jagir Singh. The appellant is stated to be son of Gurmeet Singh son of Kashmir Singh, therefore, he has claimed right in the suit property by way of birth.

On a query by the Court, counsel for the appellant has fairly informed that Sh. Hazara Singh passed away in the year 1993 and his estate was succeeded by his sons on the basis of natural succession. Since sons of Hazara Singh had succeeded land including the suit land by way of natural succession in view of Section 8 of the Hindu Succession Act, 1956, it is difficult to accept contention of the appellant that suit land was Joint Hindu Family Coparcenary Property in the hands of Kashmir Singh, therefore, the same could not be alienated/disposed of except for legal necessity or benefit of estate. The Courts have recorded concurrent findings against the appellant and the same do not suffer from an error much less perversity warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, the application for condonation of delay is of academic relevance only.

JULY 25, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no