

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

RSA-3869-2016 (O&M)

Date of decision : 25.07.2018

Jogi Ram

... Appellant

Versus

Ram Sarup (now deceased) through his legal representatives

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Munish Kumar Garg, Advocate
for the appellant.

AMOL RATTAN SINGH, J.(ORAL)

This appeal has been filed against the concurrent findings of the learned Civil Judge (Sr.Div.), Narwana, (vide his judgment and decree dated December 20, 2013) and of the appellate Court, i.e. the District Judge, Jind, vide his judgment and decree dated February 05, 2016, dismissing the suit of the appellant-plaintiff, whereby he had sought a decree of declaration and consequent permanent injunction against the respondent-defendant, qua the suit land.

The appellant had averred that the suit land was ancestral property that had devolved upon his father, Ranjit son of Datu and further, that the sale deed relied upon by the respondent-defendant, stated to have been executed in their favour by the said Ranjit on 19.06.1980, was a fraudulent transaction, with learned counsel for the appellant submitting that even the thumb mark of the late Ranjit was found to be not tallying with his actual thumb impression, as was proved by the finger print expert examined by the appellant, before the learned Civil Judge.

As regards the question of the suit property being ancestral, nothing has been pointed out to this Court that it was actually found to have devolved upon Ranjit, father of the plaintiff, from his ancestors, but learned counsel for the appellant submits that even if it is taken to be self acquired property, the finger print experts' testimony could not have been discarded.

Having considered the aforesaid argument, it has been found as a matter of fact by the learned Courts below that the registered sale deed dated 19.06.1980, in favour of the respondent-defendant Ram Sarup (now represented by his LRs), was duly reflected in the revenue record right since that time upto the time the suit was filed in the year 2008, i.e. 28 years later.

That being so, with learned counsel very fairly not denying that even as per the revenue record, the possession over the suit land was also reflected to be that of respondent-defendant, I see no reason to entertain this appeal on concurrent finding of fact as regards the revenue entries and the finding upon the registered sale deed having been executed on the aforesaid date.

The limitation for challenging a registered document even on the ground of fraud is 3 years as per Article 59 of the Schedule to the Limitation Act, 1963, and even though it is 3 years from the date that the plaintiff gained knowledge of the said document, the fact that the revenue entries duly reflected the transfer of the property in terms of the aforesaid sale deed, and possession admittedly has been since then that of the respondent, it cannot be stated that the plaintiff had no knowledge of the factum of the suit land having been sold by his father. It is further to be seen that the father remained alive for about 15 years after the sale, as recorded by the learned Civil Judge, with him also never having challenged the sale

deed.

Consequently I see no ground to entertain this 2nd appeal, which
is therefore dismissed in *limine*.

(AMOL RATTAN SINGH)
JUDGE

July 25, 2018.
D.K./dinesh

Whether speaking / reasoned	Yes
Whether reportable	Yes