

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

RSA No.3427 of 2015 (O & M)
Date of Decision:18.05.2018

Man Singh and others

...Appellants

Versus

Jagbir

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None.

ANIL KSHETARPAL, J.

CM-8299-C-2015

For the reasons stated in the application, which is duly supported by an affidavit, delay of 101 days in re-filing the appeal is condoned.

Application is allowed.

Main Case

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs, who are legal heirs of Sahi Ram son of Sh. Pyare have filed a suit for declaration with a consequential relief of permanent injunction. Plaintiffs are challenging the sale deed and a mortgage deed executed in favour of defendant No.1 on 08.01.1997 and 28.05.1997. It is the case of the plaintiffs that Sh. Pyare (their grand father was owner of the property) and Sahi Ram was his son, who is predecessor-in-interest of the plaintiffs. Sahi Ram was person of bad vices and, therefore, he forged a Will of Sh.Pyare on 17.11.1997 and got the mutation sanctioned on that basis.

Wife of Sh. Pyare and mother of Sh. Sahi Ram filed a civil suit challenge

the validity of the Will dated 17.11.1997. Sahi Ram was restrained from alienating the suit property as per order dated 26.03.1996 which was confirmed on 31.10.1996. It is further pleaded that suit filed by Gangabati was decreed and the Will was declared illegal. However, Sahi Ram sold some part of the property vide registered sale deed dated 08.01.1997 and mortgaged 6 kanals and 8 marlas vide agreement deed dated 26.05.1997. Defendant contested the suit and pleaded that Gangabati had filed another suit challenging the sale deed dated 08.01.1997 in which the defendant had filed a counter claim. The suit filed by Gangabati was dismissed for non-prosecution. However, counter claim was decreed and the defendant was declared owner in possession of land measuring 4 kanals and 2 marlas.

Learned trial Court on appreciation of evidence, decreed the suit filed by the plaintiffs except land measuring 4 kanals and 2 marlas which was covered by judgment dated 10.05.2010. Only plaintiffs filed the first appeal. Learned First Appellate Court after re-appreciating the evidence available on the file, dismissed the appeal filed by the plaintiffs.

This Court does not find that the judgments passed by the Courts below suffers from any illegality or perversity. A reading of the grounds of appeal does not show that any misreading or non-reading of the evidence has been pointed out.

In view thereof, there is no scope for interference.

Regular second appeal is dismissed.

18.05.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No