

RSA No.527 of 2016 (O&M)

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

RSA No.527 of 2016 (O&M)

Date of decision:26.11.2018

Manjit Singh

... Appellant

Vs.

Rajender (since deceased) through LRs and others... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

**Present:- Mr. Ramender Chauhan, Advocate
for the appellant.**

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been successful in claiming the declaration vis-a-vis the sale deed dated 27.03.1991 executed by his father/defendant no.6 in favour of defendants no.1 to 5 on the ground that it had the trappings of ancestral character and nature.

The plaintiff was not aware of this fact and had attained the majority in 2005, therefore, suit was filed in 2008. The defendants in pursuance to the sale deed, had further sold the land on 30.06.2008 in favour of defendant no.5A.

Defendants no.7 and 8 contested the suit and the remaining defendants were proceeded against ex parte.

Mr. Ramender Chauhan, learned counsel appearing on behalf of the appellant-plaintiff submitted that in the absence of any denial to the averments in the plaint, the same were deemed to have been accepted as suit

property at the hands of Jaipal was ancestral, for, he inherited the suit land from the great grandfather and therefore, the plaintiff being fourth generation in lineage had a right by birth in the suit land.

I am afraid the aforementioned argument is not sustainable, for, no documentary evidence i.e. revenue excerpt has been brought/proved on record to establish the nature and character of the suit land as ancestral. In the absence of same, the trial Court rightly dismissed the suit holding it to be self-acquired property. It is settled law that suit against father during his life time in respect of self-acquired property is not maintainable.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 26, 2018
savita

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