

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101

CM-10074-C-2015 in/and
RSA-4159-2015 (O&M)
Date of Decision : 10.9.2018

Lal Singh and others

....Appellants

vs.

Ravi Dutt and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Abhishek Yadav, Advocate
for the applicants-appellant(s).

AJAY TEWARI, J. (Oral)

CM-10074-C-2015

For the reasons recorded in the application, the same stands allowed and delay of 50 days in filing the appeal is condoned.

Main Case

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by the respondents No. 1 to 9.

The case of the respondents No. 1 to 9 was that their ancestor Devkaran had given the land in dispute to the ancestor of respondents No. 10 to 23 as Dholi in the year 1917. However, the respondents No. 10 to 23 had illegally mortgaged the land in favour of the appellants in 1964 and by that action the Dholdari rights had been extinguished and they had consequently sought a declaration that they were owner and for possession.

As mentioned above, both the Courts below having decreed the suit the

appellants are before this Court.

It is admitted that there is no written document by which the Dholi was created but in the mutation when the Dholi was created (Exhibit P-10), there was an unequivocal condition that the Dholidar would not be entitled either to sell or mortgaged the land.

To my mind, the appeal must fail in view of the specific condition mentioned above. Both the Courts below have rightly held that though there were some conflicting judgments of this Court yet ultimately the Division Bench had considered all the judgments and had held in ***“Sittal Dass and another Versus Financial Commissioner, Haryana and others, 1989 P.L.J. 148”*** that normally Dholidar would have no right to alienate the land unless a contrary condition was spelled out. In this case, as mentioned above there were specific condition of restriction on sale or mortgage.

Consequently, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

10.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No