

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

**RSA No.5694 of 2016 (O&M)
Date of Decision.28.11.2018**

Sadhu Singh

...Appellant

Vs

Mohinder Singh and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kanwal Goyal, Advocate and
Ms. Khayati Goyal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellant-plaintiff has not been successful in claiming declaration that the defendant has no right and title in the suit property No.45-A, New Vijay Nagar, Jalandhar by laying challenge to the sale deed dated 10.03.1988 executed by defendant No.2 in favour of defendant No.1 and in the absence of the sale deed, plaintiff along with defendant No.2 are owner to the extent of half share.

The trial Court dismissed the suit and so did the lower Appellate Court in first appeal.

Mr. Kanwal Goyal and Ms. Khayati Goyal, learned counsel appearing for the appellant submitted that categoric assertions in the plaint were that the sale deed dated 10.03.1988 did not give right to the defendant as it was without consideration. This fact has not been belied or controverted by the defendant. There is no limitation in claiming right in the title, even if the suit was filed in 2007.

I am afraid aforementioned argument of learned counsel for the appellant is not sustainable, for, in proceedings initiated in 1995, plaintiff admitted the execution of the sale deed dated 10.03.1988. The said statement has been brought on record as Ex.D11, which is admissible in evidence as per Section 33 of the Indian Evidence Act. The suit filed in 2007 laying challenge to the sale deed executed in the year 1988 was not within limitation as provisions of Article 58 of the Limitation Act would apply, instead of Article 59.

In the view of the aforementioned circumstances, I do not find any illegality and perversity in the concurrent finding of fact, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 28, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No