

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4902 of 2015

Date of Decision : 01.02.2018

Jagsir Singh and another

....Appellants

Versus

Baljit Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.K.S. Phoolka, Advocate
for the appellants.

Surinder Gupta, J. (Oral)

Learned counsel for appellants submits that plaintiff-Baljit Singh (respondent no. 1 in this appeal) had purchased 1/13th share out of the land measuring 23 *kanals* 8 *marlas* from Kulwant Singh. However, trial Court has given him decree of declaration that he is owner in possession of 1/3rd share out of 23 *kanals* 8 *marlas*. Plaintiff is also not in possession of any specific portion of the land out of the suit land measuring 23 *kanals* 8 *marlas*, regarding which declaration of possession has been allowed to him.

On perusal of paper-book, I find that the mistake in describing the share of plaintiff-respondent no. 1 as 1/3rd is typographical only as the Court below has specifically mentioned that his land is 1 *kanal* 16 *marlas*, which he had purchased vide sale deed dated 02.04.2007. Though, Courts below have not given any declaration or allowed relief regarding any specific portion of the land measuring 23 *kanals* 8 *marlas*, the decree is to be considered for share of the land to the extent of 1 *kanal* 16 *marlas*. In this regard, there is no ambiguity in the decree. The sale deed, copy of which has been shown to me by learned counsel for the appellant, also clearly states that plaintiff had purchased 1 *kanal* 16 *marlas* of land from

in para 17 of the judgment has clarified that share of plaintiff in suit land is $1/13^{\text{th}}$ and not $1/3^{\text{rd}}$.

It is not disputed that plaintiff-respondent no. 1 had purchased the land in dispute much prior to purchase of land measuring 22 *kanals* $2\frac{1}{2}$ *marlas* by appellant from Kulwant Singh. The sale in favour of appellant does not effect the sale by Kulwant Singh in favour of plaintiff-respondent no. 1 while the sale by Kulwant Singh in favour of plaintiff-respondent no. 1 binds the appellant to the extent that Kulwant Singh had sold the land to him.

Keeping in view above facts, this appeal has no merit and the same is dismissed, however, with the clarification that decree passed by the trial Court pertains to the land measuring 1 *kanal* 16 *marlas* out of the land measuring 23 *kanals* 8 *marlas* (suit land), which forms $1/13^{\text{th}}$ share in the suit land.

February 01, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No