

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

RSA No.6819 of 2016 (O&M)

Date of Decision.01.05.2018

Prem Chand and others

.....Appellants

Vs

Tarun and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjay Verma, Advocate
for the appellants.

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AMIT RAWAL J.(ORAL)

The appellants-defendants are aggrieved of the concurrent finding of fact whereby the suit seeking declaration and permanent injunction by the respondents-plaintiffs has been decreed by the trial Court and upheld by the lower Appellate Court.

The respondents-plaintiffs instituted the suit aforementioned on the ground that Uday Ram was having half share out of total land measuring 52 kanals 13 marlas i.e. 26 kanals 6 marlas, which was purchased by Uday Ram from the Rehabilitation Department as per the sale certificate dated 30.04.1975. In lieu thereof, an amount of ₹9000/- was paid on 31.01.1975. On demise of Uday Ram, his son Hari Ram inherited the property. Hari Ram was grand-father of the plaintiff whereas the defendants are sons of Hari Ram. During his life time, he executed a Relinquishment Deed dated 28.07.2008 in favour of the respondents-plaintiffs. Since the defendants were asserting right in the property, declaration and permanent injunction was sought with consequential relief of injunction qua forcible dispossession.

The defendants contested the suit on all points, even denied the

relationship of the plaintiff with Hari Ram and propounded a Will dated 01.05.2008.

The trial Court on the basis of the evidence brought on record decreed the suit and rejected the Will of the appellants-defendants. The finding of the trial Court was upheld in appeal by the lower Appellate Court.

Mr. Sanjay Verma, learned counsel appearing on behalf of the appellants-defendants submitted that the suit land in the revenue record was reflected as Bhondedar which as per the revenue record could not have been transferred by way of Relinquishment Deed. Though the copy of the Will had not been proved on record but in the absence of any document, the estate of Hari Ram was required to be devolved by way of natural succession. All these factors have been ignored by the Courts below, thus, there is illegality and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Verma. The Relinquishment Deed was a registered document, which had not been challenged by setting up a counter claim. The suit was filed on 12.11.2008 whereas the Relinquishment Deed was of 28.07.2008 and Hari Ram died on 07.08.2008. Neither witness of the Will appeared nor the original Will had seen light of the day. Any registered document cannot be set aside or ignored in the absence of challenge to the same. This view of mine is derived from the judgment of Hon'ble Supreme Court rendered in **Satya Pal Anand Vs. State of MP and others AIR 2016 SC 4995.**

As an upshot of my finding, there is no illegality and perversity

in the judgments and decrees rendered by both the Courts, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. The appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 01, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No