

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

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[RSA-6901-2016 \(O&M\)](#)[Date of decision : 18.7.2018](#)

DHARAM RAJ & ANR

... Appellants

Versus

BIMLA & ORS

.... Respondents

Coram : Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Sandeep Parkash Chahar, Advocate
for the appellants.

Harinder Singh Sidhu, J

Plaintiffs have filed the present appeal against the judgments and decrees of the courts below whereby their suit challenging the sale deed No.1472, dated 5.7.2006 executed by their late father, namely Chhattar Singh in favour of defendants No.1 and 2, has been dismissed.

Plaintiffs Nos.1 and 2 are the sons of Chhattar Singh and defendants Nos.3 and 4 are their brothers. Defendants No.1 and 2 are their sisters-in-law, being wives of defendants No.3 and 4, respectively.

The civil suit was instituted by the plaintiffs claiming that their father Chhattar Singh was having ½ share in the land measuring 181 kanal 10 marlas compromised in Khewat No.27 Khatoni No.28, Khasra Nos.13/11, 12, 13, 18, 19, 20, 21, 19/1, 30/7, 14, 51/23, 24/1, 60/2/2, 60/3, 4 to 8, 9/1, 10/1, 11/2, 12, 13/2, 13/1, 14, 15, 164, 254 situated within the revenue estate of village Jahadpur, Tehsil and District Jhajjar.

It was claimed that the land in dispute was ancestral as their father had inherited the same from his father and he was not competent to

alienate the suit land in favour of defendants No.1 and 2. It was further pleaded that their father was not in a sound state of mind at the relevant point of time when the sale deed was executed. Plaintiffs have claimed that they were entitled to 1/5th share each in the land owned and possessed by Chhattar Singh on the basis of inheritance.

The defendants on the other hand, claimed that the Chhattar Singh was fully competent to alienate the land in dispute. It was further claimed that he being a Jat by caste was governed by custom. It was further claimed that alienation was for bona fide need and family necessity. It was further their case that defendants No.1 and 2 were the bona fide purchasers of the land for valuable consideration and Chhattar Singh during this life time never challenged the sale deed.

Learned trial court held that the suit property had been inherited by Chhattar Singh from his father Mange Ram. Jamabandi, Ex.PX and mutation, Ex.PY proved that property was possessed by Mange Ram and after his death, the same was inherited by Chhattar Singh. It was accordingly, concluded that the property was ancestral property in the hands of Chhattar Singh. However, he being the head (Karta) of the family and belonging to Jat community was fully competent to alienate/dispose of the entire ancestral/co-parcener property. Reliance in this regard was placed upon the judgment of Hon'ble Apex Court in “**Sube Singh and another** Vs. **Kanhaya and others**” 1991(1) LRJ 313.

Further considering that even the plaintiff-Daya Nand in his cross examination had admitted that correctness of the sale deed EX.P2, also proved that transaction was not without consideration. PW7, Dharam Raj also admitted that there was need and requirement of money in the

family of Chhattar Singh. He had solemnized marriage of family members and there was need of money for domestic purposes.

Accordingly, learned trial court also concluded that the alienation was for valuable consideration. The court also held that Chhattar Singh was in a sound state of mind at the time of execution of the sale deed. Accordingly, the suit of the plaintiffs was dismissed.

Learned lower appellate court, however, held that it had not been established that the property was ancestral in the hands of Chhattar Singh as there was no evidence on record to prove that the father of Chhattar Singh inherited the suit property from his great grand father through his grand father. The property not being ancestral, the plaintiffs had no right to assail the alienation made by their father Chhattar Singh. Further, the evidence proved that alienation was for family necessity. Accordingly, the appeal was dismissed.

Learned counsel for the appellant has not been able to establish as to how the findings recorded by the Courts below are perverse or against the record. No question of law arises for decision in this appeal.

Dismissed

18.07.2018
sd

[**Harinder Singh Sidhu**]
Judge

Whether Speaking / Reasoned
Whether Reportable

Yes/No
Yes / No