

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.739 of 2015 (O&M)

Date of Decision:17.08.2018

Rajesh Kumar

...Appellant

Versus

Manjeet Kaur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: None for the appellant.
Mr.O.P.Sharma, Advocate for respondent No.1.

ANIL KSHETARPAL, J.

The defendant-appellant is in the regular second appeal against the concurrent findings of fact arrived at by both the courts below.

The defendant-appellant is husband, whereas respondent No.1 is his wife. They were married in June 1997. Since the appellant is alleged to have fallen into bad company, therefore, with the intervention of respectables and to ensure that the appellant does not dispose of all the property, a settlement was arrived at in the Panchayat, which was reduced into a writing on 23.9.2007. It was decided that land which is in the share of Rajesh Kumar measuring 16 kanals and 15 marlas would remain in possession of plaintiff-respondent/wife and Rajesh would not be entitled to alienate the same and she would continue to receive the maintenance from the income of the land by cultivation.

The defendants did not contest the suit.

The learned trial court, on appreciation of ex parte evidence, decreed the suit. The defendant-appellant Rajesh filed first appeal. The

learned first appellate court also after reappreciating the evidence, dismissed the appeal.

While filing the appeal in this Court, following substantial questions of law were proposed:-

- (i) Whether the impugned judgments and decrees passed by the learned courts below are sustainable in the eyes of law?
- (ii) Whether the appellant-defendant has been served as alleged?
- (iii) Whether the suit can be decreed merely on the apprehension of the respondent-plaintiff and in the absence of any order of competent court of law granting maintenance?
- (iv) Whether the respondent-plaintiff has filed the present suit in collusion with the proforma respondents-defendants No.3 to 4?
- (v) Whether grave and manifest injustice has been caused to the appellant-defendant?

This Court has gone through the grounds of appeal as well as proposed substantial questions of law.

In the considered opinion of this Court, on reading of the grounds of appeal, it is apparent that neither any misreading of evidence nor any non-reading of substantive evidence has been pointed out. The questions of law, which have been framed, are not the questions of law. It may be noted here that respondent No.2 in the appeal is father of the appellant (Rajesh). Defendants No.3 and 4 are also relatives of appellant only. However, defendants No.2 to 4 have chosen not to contest either the suit or the appeal. A legally wedded wife has a charge over the property of the husband with respect to amount of maintenance. This is what was

decided by the Panchayat.

In view thereof, there is no ground to interfere with the appeal.

Regular Second Appeal is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

.08.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No