

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

RSA No.1025 of 2017 (O&M)

Date of decision:22.11.2018

Swaran Singh

... Appellant

Vs.

Harbans Singh (since deceased) through LRs and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Gurnam Singh, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.2322-C of 2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 78 days in re-filing the appeal, is condoned.

C.M stands allowed.

RSA No.1025 of 2017 (O&M)

The appellant-plaintiff has not been successful in claiming declaration in respect of sale deed dated 17.01.2007 executed by his father, Harbans Singh by alleging that suit land at the hands of his father was co-parcenary, therefore, could not alienate except for legal necessity.

Both the Courts below did not find favour with the plaintiff.

Mr. Gurnam Singh, learned counsel appearing on behalf of the appellant-plaintiff submitted that witnesses of the sale deed stated that no

consideration was passed. No reasons have been assigned as to how and under what circumstances, Harbans Singh had executed the sale deed in favour of grandson and therefore, the sale deed required to be declared null and void.

I am afraid the aforementioned argument is not sustainable in the eyes of law for two reasons:-

i) No evidence has been led to establish that Harbans Singh had acquired the property through ancestors and plaintiff being fourth generation. On the other hand, it has been found that the suit land was purchased by Harbans Singh.

ii) Once it was a self acquired property, he could deal with the property in any manner. In a family transfer, the monetary consideration is irrelevant as it is only love and affection. This is what the import of the judgments and decrees of the Courts below.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 22, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No