

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

RSA No.1073 of 2017 (O&M)

Date of decision : 20.12.2018

Parvinder Singh

...Appellant

Versus

Gurdev Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Sharma-I, Advocate for the appellant.

Mr. Sunil Garg, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Defendant-appellant is in the Regular Second Appeal against the judgment passed by the learned First Appellate Court reversing the judgment of the trial Court.

Through the judgment passed by the First Appellate Court, the sale deed in favour of defendant-appellant has been held to be illegal on the ground that the property is joint hindu family ancestral coparcenary property.

Learned trial Court had dismissed the suit. However, the learned First Appellate Court has reversed the findings.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Learned First Appellate Court, but for making reference to the excerpt prepared by the Revenue Official and the fact that the repayment of the loan was before the date on which the sale deed took place, has not referred to any other evidence which was available on the file.

Learned First Appellate Court has also not by any critical analysis, discussed and reversed the reasons given by the trial Court to dismiss the suit.

Under Section 96 of the Code of Civil Procedure, the First Appellate Court is expected to re-appreciate the evidence and after critical analysis of the reasons recorded by the trial Court give its own findings. The judgment under appeal does not fulfill the aforesaid requirements.

Keeping in view the aforesaid facts, the judgment under appeal is set aside. The case is remitted back to the First Appellate Court to re-decide the case in compliance with Section 96 of the Code of Civil Procedure.

Parties through their counsel are directed to appear before the First Appellate Court on 14.01.2019.

In view of the above, the present appeal is disposed of.

The First Appellate Court is requested to decide the appeal within a period of six months.

20.12.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No