

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

RSA No. 1966 of 2017(O&M)

Date of decision : 07.09.2018

Gurmeet Singh

....Appellant

V/s

Pritam Singh & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rajiv Joshi, Advocate for the appellant.

RAJAN GUPTA J.

After remaining unsuccessful in two courts below, plaintiff-appellant has preferred this appeal before this court. Learned counsel for the appellant has argued that both the courts below have gravely erred in law by ignoring the material facts on record. A substantial question of law arises whether courts below misread the evidence and, thus, arrived at a wrong conclusion. Interference is thus called for in second appeal.

I have heard learned counsel for the appellant.

Brief factual background of the case is that plaintiff filed a suit seeking declaration to the effect that sale-deed dated 29.05.1967 in respect of 2/3rd share of the suit land is illegal, invalid and not binding on him; with a further prayer for possession of the suit land qua his share and for cancellation of mutation thereof alongwith prayer for permanent injunction restraining the defendants from alienating the suit land in dispute. It has been averred that father of plaintiff, defendant no. 1-Hari Singh was owner in possession of land measuring 40 Kanals 11 marlas. After his death, plaintiff, defendant no. 1 and Ajit Singh, being his legal heirs, inherited his

estate as joint owners in possession in equal share. In the year 1974, plaintiff was appointed as driver in Government of Arunachal Pradesh and permanently settled there. After the retirement, he visited his native place. On an inquiry being made from the revenue authorities, he came to know that the defendant no. 1 had sold the suit land measuring 27 kanals alongwith his share to defendants no. 2 to 6 vide registered sale-deed dated 29.05.1967. It was alleged that he never authorized defendant no. 1 to sell his share. Thus, sale-deed dated 29.05.1967 is wrong, illegal, invalid, inoperative and not binding upon the right of the plaintiff to the extent of 1/3rd share. Suit was contested by defendants. They took number of preliminary objections. On merits, they contended that defendants no. 2, 4 & 5 were bona fide purchasers as they had purchased the land in question vide registered sale-deed dated 29.05.1967 from plaintiff and defendant no. 1 and mutation in respect thereof had been entered in their names. Thus, suit was not maintainable. On the basis of evidence led before the trial court, it came to the conclusion that plaintiff had miserably failed to prove his case by leading any cogent evidence and moreover suit was barred by limitation. It, thus, dismissed the suit. Findings were unsuccessfully challenged before the lower appellate court. In the instant appeal, learned counsel for the appellant has not been able to show any defect with the appreciation of evidence by two courts below. It is established on record that plaintiff at the time of execution of sale-deed was not minor. It is evident that plaintiff alongwith his brother Pritam Singh (defendant no. 1) vide sale-deed Ex. D1 dated 26.06.1967 has purchased another land measuring 39 Kanals 4 marlas from one Jagat Singh from the sale consideration of land in dispute which falsify the case of plaintiff that he has been defrauded by defendant no. 1.

the concurrent findings. Appeal is without any merit and same is hereby dismissed.

As the main appeal has been dismissed on merits, no order needs to be passed in the accompanying application.

September 07, 2018
Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No