

RSA-2317-2017 (O&M)

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

**RSA-2317-2017 (O&M)
Date of decision : 04.12.2018**

Amarjit Singh and others

... Appellants

Versus

Bawa Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Malkeet Singh, Advocate for the appellants.

AMIT RAWAL, J.

The appellants-plaintiffs have not been successful in claiming declaration of ownership in respect of land measuring 34 kanals 2 marlas, but was granted the injunction qua forcible dispossession and interference except in due course of law.

The suit, aforementioned, was proceeded on the premise that vide sale deed dated 19.11.1976, respondent Nos.1 & 2/defendants along with their mother Gurmej Kaur sold the aforementioned piece of land for a sale consideration of ₹40,000/-. However, mutation in respect of land measuring 15 kanals 7 marlas was only sanctioned giving a cause of action of plaintiffs to seek declaration of entire piece of land.

The defendants opposed the suit by asserting that land was owned by five persons and not three persons, thus, the sale deed could not be confined viz-a-viz share of remaining two other persons.

Learned counsel for the appellants-plaintiffs submitted that in pursuance to the sale deed, aforementioned, the plaintiffs had been put into possession and had been enjoying suit property. The sale deed could not

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have been confined to land 15 kanals 7 marals as no counter claim at the instance of the defendants was filed, in other words, the sale deed had become final, in the absence of challenge within the statutory period.

I have heard learned counsel for the appellant and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Malkeet Singh as the plaintiffs miserably failed to prove that respondent Nos.1 and 2/defendants along with their mother were exclusive owners of the piece of land measuring 34 kanals 2 marlas or prevailing date at the relevant point of time. Had such evidence been led regarding the consideration in respect of the entire land, it could have been best for setting up the case of apportionment of consideration. Even the evidence to the fact that the defendants were not owner of land measuring 15 kanals 7 marlas, has not been led. Noticing the possession, injunction has been granted.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Malkeet Singh to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

04.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**