

In the High Court of Punjab and Haryana at Chandigarh

RSA- 1975 of 2018 (O&M)

Date of Decision: 18.4.2018

Mandeep Singh and another

---Appellants

versus

Sukhdev Singh and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Raj Kumar Kakkar, Advocate
for the appellants**

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit filed by the respondent-plaintiff claiming himself to be owner in possession of suit land measuring 9 kanal 14 marlas out of land, detailed in head note of the plaint was decreed by the trial court to the effect that the respondent-plaintiff is owner of land measuring 9 kanals 14 marlas out of land measuring 24 kanal 2 marlas owned by Fauja Singh, predecessor-in-interest of the parties as per Will dated 21.6.2006 (Annexure P1); mutation No. 7831 has been set aside and the orders dated 21.10.2010 (wrongly mentioned as 21.10.2012), 12.10.2011 and 22.5.2014 passed by revenue authorities were declared as null and void. The appeal filed by the appellants/defendants did not find favour with the first appellate court whereby findings recorded by the trial court have been affirmed without variance.

Counsel for the appellants, in line with the stand of the

defendants/appellants and contentions raised before the courts has strenuously argued by relying upon affidavit dated 31.10.2007 that the respondent/plaintiff sold land measuring 10 kanals 4 marlas from his share through Fauja Singh vide sale deed dated 12.11.2007 in favour of Gurjeet Singh, therefore, the respondent/plaintiff is left with his share only to the extent of 5 kanal 16 marlas.

Indisputably, land in question was owned by Sh. Fauja Singh, father of the respondent/plaintiff and grand father of Mandeep Singh and Hardeep Singh, defendants in the case. There is no dispute that Fauja Singh executed Will dated 21.6.2006 in favour of the respondent/plaintiff and defendants and gave specific share(s) out of land of his ownership to the parties. Fauja Singh passed away on 25.3.2009. However, during his life time, he executed sale deed dated 12.11.2007 in favour of Gurjeet Singh qua land measuring 10 kanal 4 marlas. So long as Fauja Singh was alive, the respondent/plaintiff and the appellants did not have any right in the land owned by Fauja Singh, therefore, execution of alleged affidavit by the respondent/plaintiff purportedly authorizing Fauja Singh to sell his land to any extent would be of no legal consequence and has rightly been rejected by the Courts to negate plea of the appellants/defendants that after sale on 12.11.2007 by Fauja Singh, the respondent/plaintiff is left with share only to the extent of 5 kanal 16 marlas. In this view of the matter, I do not find an error much less perversity in the concurrent findings recorded by the courts warranting intervention much less there being a question of law that needs determination after notice to the contesting party.

For the foregoing reasons, the appeal fails and is accordingly

dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

18.4.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No