

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.285 of 2017 (O&M)

Date of Decision: November 13, 2018

Lakhbir Singh

...Appellant

Versus

Harpartap Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ankur Bansal, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.665-C of 2017

For the reasons mentioned in the application, which is supported by an affidavit, delay of 26 days in filing the appeal is condoned.

CM stands disposed of.

RSA No.285 of 2017

Appellant-defendant No.2 has not been successful in defending the concurrent findings of fact, whereby the suit of the respondent-plaintiffs seeking status along with defendant No.9 to be in joint ownership and possession of the property measuring 3 kanals 8 marlas, has been decreed.

Plaintiffs asserted the right in the aforementioned property by virtue of a registered sale deed dated 15.03.1978 executed by Harjit Singh and Punna Singh, who were joint owners of the property. It is a matter of record that the total land holding in their favour was 13 kanals 10 marlas and the plaintiffs had purchased land measuring 3 kanals 8 marlas. Post the execution of the registered sale deed of 1978, Harjit Singh obtained a

compromise decree dated 25.09.1992 and the entire property vested with him and on 13.09.1996, Harjit Singh sold the property measuring 3 kanals 8 marlas in favour of the appellant-defendant No.2 and regarding rest executed the Will. It is in these circumstances, the plaintiffs claimed the declaration by filing suit in 2013.

On the preponderance of the evidence, the trial Court decreed the suit.

Mr. Ankur Bansal, learned counsel representing the appellant-defendant No.2 submitted that the plaintiffs have miserably failed to prove the execution of the registered document as the land was allegedly sold for a total sale consideration of ₹ 9,000/-, but did not step into the witness box. The examination of the witness from the concerned office of Sub Registrar, thus, would be meaningless.

Handwriting Expert DW-1 Varun Gagneja opined that the sale deed did not bear the signatures of Harjit Singh. PW-1 Kuldeep Singh Ex-Sarpanch, the alleged attesting witness was not consistent. PW-2 Jasbir Kaur plaintiff No.3, who had stepped into the witness box, could not depose in terms of the pleadings in the suit. Defendants had also filed a suit challenging the sale deed dated 15.03.1978 which is pending adjudication, therefore, there is gross illegality and perversity.

I am afraid, the aforementioned argument is not sustainable, for, not only plaintiff No.3 stepped into the witness box but PW-1 Kuldeep Singh Ex-Sarpanch witness of the sale deeds dated 15.03.1978 Ex.PW1/B and Ex.PW1/C, but despite extensive cross-examination, nothing contrary surfaced. He explained that the contents of the sale deeds were read over to Harjit Singh and Punna Singh, who put their thumb impressions/signatures

in his and Mohinder Singh's presence. It is common practice amongst the experts to toe to the lines of the clients, therefore, it may not be a perfect science to be believed.

PW-4 Romi, concerned person from the D.C.Office Jalandhar had proved the certified copies of the sale deeds bearing document No.7609 and 7610. All these aspects have been proved. In fact, Harjit Singh and Punna Singh had played a fraud at the back of the plaintiffs for the reason that they could not arrive at a compromise with regard to the land measuring 3 kanals 8 marlas.

There is no dispute of the remaining land, thus, the argument is not able to bring the case within the realm of perversity. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

November 13, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No