

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

RSA No.2747 of 2018 (O&M)

Date of decision : 31.10.2018

Sadhu Singh (deceased) through his LRs

...Appellant

Versus

Harbhajan Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jag Nahar Singh, Advocate for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM No.7159-C of 2018

For the reasons stated in the application, which is duly supported by an affidavit, delay of 381 days in filing the present appeal is condoned.

Application is allowed.

CM No.16597-C of 2018

Application is allowed.

Certified copy of statement of DW1-Satwinder Singh, is taken on record.

Main case

Legal heirs of the plaintiff-appellant are in the Regular Second Appeal against the judgment passed by the learned First Appellate Court.

The plaintiff, who is now no more, had challenged a sale deed executed by his son-defendant No.2 in favour of defendant No.1 on the ground that the property is joint hindu family ancestral property and,

therefore, defendant No.2 has no right to sell the property.

Learned First Appellate Court has recorded a finding that no documentary evidence has been produced by the plaintiff to prove that the property is ancestral in the hands of the plaintiff.

Learned counsel for the appellant submitted that no doubt, no documents have been produced but since the property is situated within abadi, therefore, there cannot be any documentary evidence.

It is the plaintiff who has to stand on his own legs. The plaintiff has come to the Court challenging the sale deed executed by his son. Once the plaintiff has not produced any reliable evidence to prove that the property was joint hindu family ancestral property, learned First Appellate Court has rightly reversed the judgment of the trial Court.

Learned counsel for the appellant has further relied upon a judgment passed in a suit for injunction wherein admittedly title was neither in issue nor decided. In the considered opinion of this Court, such judgment passed by the Court in a separate suit which is only for injunction would not in any way come to rescue the appellant.

Hence, there is no ground to interfere.

Regular Second Appeal is dismissed.

31.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No