

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

**RSA No.3605 of 2017(O&M)**

**Date of decision: 16.7.2018**

Mange Ram

....Appellant

VERSUS

Sham Lal and others

.....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. C.M. Munjal, Advocate for the appellant.

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**REKHA MITTAL, J. (Oral)**

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit filed by the plaintiff/appellant Mange Ram to assail the conveyance deed No.2413 dated 19.01.1979 in favour of defendants No.2 to 4 more than their share and sale deed No.1609 dated 23.1.1981 in favour of defendant No.1 more than share of defendants No.2 to 4 being illegal, null and void, result of fraud and not binding on rights of plaintiff and performa defendants No.5 to 11 was dismissed by the trial Court vide judgment and decree dated 17.12.2013 and the appeal preferred by the unsuccessful plaintiff did not find favour with the Additional District Judge, Kaithal. The Courts have answered the issue of limitation against the appellant as conveyance deed of 1979 and sale deed of 1981 were sought to be set aside in the suit instituted in May 2009.

The plea of the appellant with regard to limitation is that in the month of January 2009, defendant No.1 threatened to dispossess the

plaintiff and performa defendants No.5 to 11 from joint possession of the suit property saying that he has become exclusive/absolute owner of the property in dispute on the basis of sale deed dated 23.01.1981 in his favour and supplied photocopy of the sale deed. The plaintiff made further inquiry and obtained copies of relevant documents and came to know about detail of the same. Counsel for the appellant has not disputed that the Courts have consistently held that the appellant or/and performa defendants No.5 to 11 were not in possession of the suit property, therefore, there is no question of defendant No.1 having threatened to dispossess the plaintiff and performa defendants from the suit property in January 2009. No sooner, plea of the plaintiff in this regard is found to be patently false, plaintiff cannot seek any advantage from the averments set up in the plaint in order to say that the suit filed by him in May, 2009 to challenge the conveyance deed of 1979 and sale deed of 1981 is within the period of limitation. In this view of the matter, there is no ground to interfere in the consistent findings recorded by the Courts negating plea of the appellant on the ground of limitation. Once the suit of the appellant/plaintiff has failed on the question of limitation, this Court need not to go into merits of the case.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

**JULY 16, 2018**

‘D. Gulati’

**(REKHA MITTAL)**

**JUDGE**

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | yes/no |
| Whether reportable        | : | yes/no |