

In the High Court of Punjab and Haryana at Chandigarh

RSA- 3742 of 2018(O&M)
Date of Decision: 13.07.2018

Dalbir Singh and another

---Appellants

versus

Darbara Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. L.S.Sidhu, Advocate
for the appellants

Rekha Mittal, J.

The present appeal directs challenge against concurrent findings recorded by the courts whereby suit filed by the appellants/plaintiffs seeking declaration and consequential relief of permanent injunction was dismissed by the trial court vide judgment and decree dated 2.7.2016 and appeal preferred by unsuccessful plaintiffs did not find favour with the Additional District Judge, Tarn Taran.

The plaintiffs-appellants have claimed that as Diwan Singh, father of the parties executed sale deed No. 390 dated 3.6.1982 qua 13 kanals of land on behalf of Charan Singh (since deceased) now represented by his legal representatives (in short "Lrs") and sale proceeds have been given to him, Charan Singh is not left with any right, title or interest in the suit land.

Apart from the fact that there is delay of 61 days in filing the

appeal, the appeal sans merit and liable to be dismissed.

Indisputably, the entire land including land sold vide aforesaid sale deed dated 3.6.1982 was owned by Sh. Diwan Singh, father of the parties. As per case set up by the appellants, Diwan Singh executed Will dated 3.12.1981 and on his death, land is inherited by his Lrs on the basis thereof. So long as Diwan Singh was alive, he was owner of the entire land owned by him. The mere fact that in the sale deed dated 3.6.1982, he has got recorded that he has sold 13 kanals of land on behalf of Charan Singh, one of his sons and given the sale proceeds to Charan Singh, is not at all sufficient to accept plea of the appellants that on account of sale, Charan Singh was left with no right, title or interest in the estate left behind by Sh. Diwan Singh. Even the fact that Charan Singh was an attesting witness to the sale deed dated 3.6.1982 would be of no consequence. In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the courts warranting intervention in regular second appeal.

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

(Rekha Mittal)
Judge

13.07.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No