

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5534 of 2017 (O&M)

Date of Decision: December 03, 2018

Om Parkash

...Appellant

Versus

Ramnath (since deceased) through L.Rs & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Sumit Sangwan, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

CM No.14641-C of 2017

For the reasons mentioned in the application, which is supported by an affidavit, delay of 35 days in filing the appeal is condoned.

CM stands disposed of.

RSA No.5534 of 2017

Appellant-plaintiff has not been successful in seeking declaration and injunction by laying challenge to the sale deed No.2883 dated 21.01.2011 executed by his father Ram Nath in favour of defendant No.2, his sister-in-law and daughter-in-law of defendant No.1.

It was alleged that Ram Nath, who died during the pendency of the suit, was owner of half share in 23 kanals 1 marlas land and vide sale deed aforementioned, sold the suit property along with electric connection and tubewell to the extent of 1 kanal 15 marlas to defendant No.2, therefore, status is that of co-sharers. The specific portion could not have

been sold by Ram Nath as he had executed a writing in the year 1996 giving equal shares to his three sons. There was notional partition, but the courts below have abdicated in dismissing the suit.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book.

The writing of 1996 though was admitted by defendant No.2 with regard to the disbursement, but the fact of the matter remains that the sale deed was executed by Ram Nath when he was alive. It is settled law that in the absence of the nature of the property being ancestral, suit by one of the children against the father does not lie. Be that as it may, any disgruntlement qua the sale of specific share along with electric connection and tubewell can be looked into as and when partition proceedings are initiated by other co-sharers, the sale deed, in such circumstances, cannot be said to be illegal.

For the reasons stated above, I do not find any illegality or perversity in the concurrent findings of fact and law, which are based on appreciation of evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

December 03, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No