

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.562 of 2017 (O&M)

Date of Decision: December 04, 2018

Harjinder Singh @ Rajinder Singh & another

...Appellants

Versus

Baljinder Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Arihant Jain, Advocate &
Mr. Arun Jindal, Advocate,
for the appellants.

AMIT RAWAL, J. (Oral)

CM No.1208-C of 2017

For the reasons mentioned in the application, which is supported by an affidavit, delay of 19 days in re-filing the appeal is condoned.

CM stands disposed of.

RSA No.562 of 2017

Appellant-plaintiffs have not been successful in seeking declaration and injunction by laying challenge to the transfer deeds dated 15.11.2007 executed by Karam Singh- defendant No.1, their father, in favour of defendant Nos.2 and 3 (son and wife of defendant No.1).

It was alleged that the property at the hands of Karam Singh was ancestral. He could not have transferred the title of land measuring 45 kanals 17 marlas in the manner and mode as indicated above, for, in 2003 defendant No.1 had already disinherited defendant No.2. It was alleged that

Karam Singh had executed a Will dated 23.12.2009 registered on 30.12.2009, but the trial court did not agree with the aforementioned evidence, pleadings and dismissed the suit. Appeal taken before the Lower Appellate Court was partly allowed.

Mr.Arihant Jain, learned counsel appearing on behalf of the appellant-plaintiffs submitted that the courts below have abdicated in not noticing the contents of the written statement filed by Karam Singh-defendant No.1, who admitted that defendant Nos.2 and 3 had played a fraud upon him in getting the transfer deeds registered. That was a clincher for the courts below to decree the suit. It could not be understood that once defendant No.2 was disinherited, how and in what manner, the love and affection erupted to transfer entire piece of land ignoring the other sons. Karam Singh died on 02.01.2010, i.e., after two years of the transfer deed. The present suit was filed on 24.01.2008.

I am afraid that the aforementioned arguments are not sustainable, for, the registered transfer deeds have been proved on record and in such circumstances, the registered Will of December, 2009 in respect of some other property in the absence of any title and interest would be meaningless. It is not the case where Karam Singh was espousing the case of plaintiffs. No criminal case was ever lodged against the beneficiaries of the land, referred to in the transfer deeds. Registered document carries a presumption of truth unless and until rebutted by leading cogent evidence, which is conspicuously absent. The trial court had no other option but to dismiss the suit. However, the Lower Appellate Court partly allowed the appeal and set-aside the transfer deed with regard to 4 kanals 16 marlas of land.

For the reasons stated above, I do not find any illegality or perversity in the judgments and decrees under challenge. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

December 04, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No