

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

RSA-679-2017 (O&M)

Date of decision: September 06, 2018

Smt. Sunder Devi and others

...Appellants

Versus

Krishan Lal @ Krishan Dutt @ Krishan & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rakesh Kumar Sharma, Advocate for the appellants.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/appellants filed a suit for declaration and permanent injunction against the defendant/respondents, with the averments that plaintiffs were owners in possession of land measuring 46 Kanals 15 Marlas, situated in village Rajpur, District Panipat. Plaintiffs also challenged Mutation No.534 and subsequent revenue entries being illegal, null and void, as sale deed No.1317/1 dated 18.11.2008, executed by defendants No.1, 2 & 5 in favour of defendant No.9 and sale deed No.1455/1 dated 03.12.2008, executed by defendant No.5 in favour of defendants No.10, 11 & 12 were illegal, null and void and not binding upon the rights of the plaintiffs. It was pleaded that one Bhura Ram @ Bhura, grandfather of plaintiffs No.2 to 5 and father-in-law of plaintiff No.1, was married with Smt. Chhoto in the year 1920. Devi Ram,

husband of plaintiff No.1 and father of plaintiffs No.2 to 5 was born to them in the year 1923 and a daughter was also born in 1925, who died soon after birth. Bohti sister of Chhoto was married in village Kirthal, but due to dispute she returned back. In the year 1927 Devi Ram became ill and Bohti started residing in the house of Devi Ram. Out of their illicit relations, defendants Krishan, Sahib Singh, Ram Mehar and two daughters were born. Bohti never obtained legal divorce from her husband nor solemnized marriage with Bhura Ram. In the year 1967 Devi Ram got separated from his father and he was given two plots. On one plot, he constructed two rooms and Verandah on the second floor. In the year 2002, a dispute arose and defendant No.1 requested plaintiff No.2 to give him some space to live in and he was given one room out of second plot. In a family settlement in 1975, the suit property fell to the share of Devi Ram, whereas other cash, gold etc. fell to the share of children of Bohti. Thus, Devi Ram had become owner in possession of the suit property. In 2008, it was revealed to the plaintiffs that the suit property had been mutated by the Halqa Patwari in favour of Devi Ram as well as defendants No.1 to 5. Suit was resisted by the defendants. Defendants No.1 to 11 in their joint written statement pleaded that after death of Chhoto, Bhura performed second marriage with Bohti and out of their wedlock, five children namely, Krishan, Sahib Singh, Ram Mehar @ Rameshwar, Ratni and Darshni were born. After death of Bhura Ram, the suit property was inherited by his six children in equal shares vide mutation No.534. Defendants No.3 and 4 had relinquished their shares in the suit property in favour of defendants No.1, 2 & 5 in equal shares.

Alleged family settlement was denied. After hearing both the parties and perusing oral as well as documentary evidence, the trial court dismissed the suit. It observed that plaintiffs had failed to prove that their predecessors-in-interest namely, Devi Ram was given the suit property by way of oral family settlement. As defendants No.1 to 5 were legal heirs of deceased Bhura and had share in the suit property, therefore, sale deeds No.1317/1 and 1455/1 were rightly executed by the defendants. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below reveals that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

CM-1469-C-2017:

Since the main appeal has been dismissed on merits, this applications for condonation of delay does not survive and the same is also dismissed.

(RAJAN GUPTA)
JUDGE

September 06, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No