

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: April 01, 2019

1. RSA No.59 of 1988 (O&M)

Devi Dutt (since deceased) through L.Rs

...Appellant

Versus

Jai Chand (deceased) through L.Rs Gajji Devi & others

...Respondents

2. RSA No.60 of 1988 (O&M)

Devi Dutt (since deceased) through L.Rs

...Appellant

Versus

Banarsi & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Chirag Wadhwa Advocate for
Mr.Kunal Dawar, Advocate,
for the appellant in both the cases.

Mr. Sukant Gupta, Advocate,
for the respondents in both the cases.

AMIT RAWAL, J. (Oral)

This order of mine shall dispose of two Regular Second Appeals bearing No.59 and 60 of 1988 as the common questions of fact and law are involved.

Mr. Chirag Wadhwa Advocate for Mr.Kunal Dawar, learned counsel for the appellant submitted that in the suit filed by Devi Dutt, it was alleged that he along with Dhanpat had purchased 1K-11M, whereas as per

memo of parties in RSA No.59 of 1988, Shanti Devi was impleaded as legal representative. In fact, the sale was for land measuring 16K-7M comprised in Khasra No.110/8 (8-0), 12/2 (6-9), 13 (8-0), 14 (8-0), 15/1 (2-4).

Mr. Sukant Gupta, learned counsel for the respondents has shown to this Court certified copy of the sale deed dated 10.01.2007, whereby the plaintiff, who alleged to be co-sharer with defendant No.2-vendor in respect of 1K-11M bearing Khewat No.111, Khasra No.110//12/1 (1-11), sold the land to the defendants. He further submitted that since Devi Dutt plaintiff, during the pendency of the suit died, Shanti Devi his wife, vide order dated 03.09.2009, passed in Civil Misc.No.9667-C of 2009 was impleaded as appellant. She, during her life time, had executed a Will dated 20.05.2009, but before the Will could be effected, she along with Dhanpat had already sold the land, therefore, there was no title or alienable right with any one.

The argument of the learned counsel for the appellant is not sustainable as in both the plaints, the plaintiff in Para 1 of the plaint asserted that his jointness with the vendor was only with respect of land measuring 1K-11M comprising of Rect.No.110, Killa No.12/2, therefore, there is no force in the argument to establish that the entire sale is only with respect to 1K-11M. In such circumstances, the right of redemption no longer subsisted as neither Dhanpat or Devi Dutt had any title in the aforementioned khasra and killa numbers.

For the reasons mentioned above, there is no illegality or perversity in the findings under challenge. No ground for interference is made out, much less involvement of any substantial question of law.

Resultantly, the appeals are dismissed.

In view of the aforementioned findings, the applications for dismissal of the appeals as having abated on account of death of sole plaintiff-appellant, also stand disposed of.

April 01, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No