

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA-3950-2019 (O&M)

Date of decision: 21.08.2019

Prem Chand and others

..... Appellants

Versus

Jagdish Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Chetan Kapoor, Advocate for the appellants.

RAMENDRA JAIN, J. (ORAL)

Un-successful appellant-defendants have preferred this regular second appeal against judgments and decrees of both the Courts below i.e. 16.04.2018 (trial Court) and 20.05.2019 (Ist Appellate Court), whereby suit for possession, recovery and permanent injunction of respondent-plaintiff was decreed.

Briefly, deceased father of appellants, namely; Sadhi @ Sadhi Ram, vide agreement to sell dated 20.05.1992, agreed to sell 11 marlas of land owned by his un-married and issueless brother, Amra, finally declared as civilly dead by a civil Court decree, to respondent-plaintiff without sanctioning of mutation of his inheritance of half share in his favour. Remaining half share had to be devolved upon his another brother-Bachna Ram. Sadhi @ Sadhi Ram-Vendor, died before execution of sale deed. As soon as mutation of inheritance of Amra was

sanctioned in favour of deceased-Sadhi @ Sadhi Ram to the extent of half share or in the name of appellants, as they had stepped into the shoes of their deceased father-Sadhi @ Sadhi Ram, respondent-plaintiff asked the appellant-defendants to execute and register sale deed in discharge of their legal and pious obligation to complete the contract/transaction entered into by their deceased-father. Respondent-plaintiff also served a legal notice upon the appellants, but when they did not budge to his genuine and legal demand, he filed a suit for possession by way of specific performance of contract dated 20.05.1992 against the appellants, which after due contest was decreed by the trial Court vide judgment and decree dated 16.04.2018.

Being aggrieved, the appellants tried their luck before the lower Appellate Court by way of appeal, but remained un-successful as the same was dismissed vide judgment and decree dated 20.05.2019.

Heard.

Having given thoughtful consideration to the submissions of learned counsel for the appellants, this Court finds that the instant regular second appeal merits dismissal being a dishonest attempt of the appellant-defendants to usurp the legal right of respondent-plaintiff duly endorsed by both the Courts below recording concurrent findings.

The plea of the the appellants that since, their deceased father-Sadhi @ Sadhi Ram had pre-deceased his brother Amra, therefore, entire share of Amra had to be devolved upon their real uncle-Bachna Ram, being Class-I heir, is not worth entertainable being beyond pleadings and in view of the fact that inheritance of Amra, was

sanctioned to the extent of half share in favour of the appellants and remaining half in favour of their uncle Bachna Ram. Undisputedly, the appellants stepped into the shoes of their deceased-father Sadhi @ Sadhi Ram, who, as discussed above, agreed to sell entire share of Amra, to respondent-plaintiff after sanctioning of mutation of his inheritance. The appellants never raised any objection against sanctioning of mutation of inheritance to the extent of half share of Amra, in their favour. Rather, they happily accepted the same and enjoyed the fruits of share of Amra, till the trial Court decreed the suit of respondent-plaintiff.

No question of law, much less substantial, has been raised in this regular second appeal. Hence, the same is not held maintainable.

No other point was argued.

I have carefully gone through the impugned judgments and decrees of both the Courts below and find no illegality or perversity in the same.

The instant regular second appeal, being meritless, is dismissed.

August 21, 2019

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No