

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

107

RSA No.4315 of 2019 (O&M)

Date of decision: 19.09.2019

AMARJIT KAUR AND ANR

... Appellants

Versus

NACHHATTAR SINGH AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. DK Prajapati, Advocate/legal aid counsel
for the appellants.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit filed by the appellants/plaintiffs to challenge sale deed No.2864 dated 08.01.1960 executed by Tara Singh and Mohinder Singh through his mother Sham Kaur was challenged on the premise that Sham Kaur was not competent to alienate property of minor Mohinder Singh, without seeking permission of the Court under the Guardians and Wards Act, 1890. It is further argued that suit property was ancestral co-parcenary property in which the appellants have right being the widow and son of late Mohinder Singh.

As per case set up by the appellants, Mohinder Singh was born in the year 1948, therefore, he was 12 years old at the time of execution of sale deed on his behalf by his mother Sham Kaur. Even if plea of appellants is accepted that Mohinder Singh attained majority in the year 1966, he could institute a suit within three years from the date of disability on account of minority ceased to exist. Mohinder Singh remained alive till the year 1993 but did not challenge sale deed executed on his behalf by his mother. The appellants have sought to allege that Mohinder Singh was not aware of the sale deed or he remained ailing, therefore, suit could not be filed. The fact whether Mohinder Singh was aware of the sale or not could only be proved by Mohinder Singh. If such a vague plea of the appellants is accepted and they are permitted to challenge sale of 1960 by filing a suit in the year 2016, it would open pandora's box to unsettle the things which have already attained finality. In this view of the matter, I do not find any reason to

interfere in consistent findings recorded by the Courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay is of academic relevance

19.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No