

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

RSA-2255-2012(O&M)

Date of decision:-19.8.2019

Hakumat Singh and another

...Appellants

Versus

Jaspal Kaur and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Ms.Gurleen Dhanoa, Legal Aid Counsel  
for appellant No.2.

Mr.Aakash Singla, Advocate  
for respondents No.1 and 2.

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**H.S. MADAAN, J.**

Briefly stated, facts of the case are that Sh.Kulwant Singh son of Sh.Hazoor Singh son of Sh.Ram Ditta Singh, resident of village 14 T.K., Post Office Jhotianwali (Jagat Singh Wala), Tehsil Rai Singh Nagar, District Sri Ganga Nagar (Rajasthan) had executed a transfer deed No.1774 dated 16.7.2004 in favour of his daughter Smt.Preet Kamal Kaur regarding 129 kanals 2 marlas of land situated at village Alamwala, Tehsil Malout; that he had two sons by names of Hakumat Singh and Harkirat Singh; that Harkirat Singh had pre-deceased Sh.Kulwant Singh leaving behind his widow Smt.Jasbir Kaur and minor daughter Kirandeep Kaur; that Sh.Hukumat Singh – son, Smt.Jasbir Kaur – daughter-in-law being

widow of pre-deceased son Sh.Harkirat Singh and his minor daughter Kirandeep Kaur, granddaughter of Sh.Kulwant Singh felt aggrieved by execution of such transfer deed by Sh.Kulwant Singh in favour of Smt.Preet Kamal Kaur and they had brought a suit for declaration, permanent injunction and possession against defendants i.e. Kulwant Singh, Preet Kamal Kaur and Jaspal Kaur. The main ground of challenge was that since the land in question was ancestral property of the parties, as it had come in the hands of defendant No.1 Sh.Kulwant Singh from his grandfather Sh.Ram Ditta Singh, in that way, Sh.Kulwant Singh could not have execute the transfer deed qua the said land in favour of his daughter Smt.Preet Kamal Kaur detrimental to the rights of the plaintiffs in the suit land. The plaintiffs had also alleged that Sh.Kulwant Singh used to remain under the influence of liquor and was not having sound disposing mind, taking advantage of which, his daughter Smt.Preet Kamal Kaur and her husband had procured the transfer deed in favour of Smt.Preet Kamal Kaur; that Sh.Kulwant Singh had executed the document without legal necessity and without consideration, at the back of the plaintiffs in unsound mind and under influence of liquor.

The suit was resisted by the defendants taking various legal objections further contending that the suit land did not have nature of ancestral property, rather the property of village Alamwala had fallen to the share of defendant No.1 Kulwant Singh, who happened to be absolute owner of the suit land with which he had got every right to dispose of the same in any manner, he liked; furthermore the plaintiffs were cultivating their land at village 14 T.K., which had fallen to their share as per family

partition and they have no right or concern with the suit property; that the suit land had fallen to the share of defendant No.1, of which he was sole and absolute owner and he validly transferred the suit land in favour of his daughter defendant No.2. Such defendants prayed for dismissal of the suit.

The plaintiffs had filed replication controverting the allegations in the written statement whereas reiterating the averments in the plaint.

On the pleadings of the parties, following issues were framed:

1. Whether the property in dispute is ancestral coparcenary property in the hands of defendant no.1? OPP.
2. Whether the transfer deed No.1774 dated 16.4.2004 executed by defendant No.1 in favour of defendant No.2 is illegal, null and void? OPP.
3. Whether the plaintiffs are entitled to the relief of joint possession? OPP.
4. Whether the plaintiffs are entitled to injunction prayed for? OPP.
5. Whether the plaintiffs have no cause of action and locus standi to file the present suit? OPD.
6. Relief.

In order to prove their case, the plaintiffs had examined Smt.Jasvir Kaur as PW1 besides tendering documents Ex.P1 to Ex.P6.

On the other hand, the defendant No.2 had got her statement recorded as DW1.

In rebuttal the plaintiffs had tendered in evidence copy of

mutation No.2332 as Ex.P7 and copy of latest jamabandi as Ex.P8.

After hearing learned counsel for the parties, the trial Court decided issues No.1 to 4 against the plaintiffs, issue No.5 against the defendants. Resultantly, suit of the plaintiffs was dismissed. This was so done vide judgment and decree dated 8.9.2008.

Feeling aggrieved by the said judgment and decree, the plaintiffs had filed an appeal in the Court of District Judge, Sri Muktsar Sahib, which was disposed of by learned Additional District Judge, Sri Muktsar Sahib vide judgment and decree dated 22.12.2011 inasmuch as the appeal was dismissed.

Being dissatisfied with the judgments and decrees passed by the Courts below, the plaintiffs have knocked at the door of this Court by way of filing regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and suit of the plaintiff be decreed.

On getting notice of regular second appeal, respondents No.1 and 2 have appeared through counsel.

I have heard learned counsel for the appellant besides going through the record and I find that there is absolutely no merit in the appeal.

Both the Courts below by proper appraisal of evidence available on record, in light of the settled legal position have arrived at the conclusion that Sh.Kulwant Singh – defendant No.1 happened to be absolute owner of the suit property. It being so, he could validly transfer the same to his daughter Smt.Preet Kamal Kaur and transfer deed does not

suffer from any illegality or infirmity. It being so, the plaintiffs have no locus standi to object to the transfer of the suit land by Kulwant Singh in favour of his daughter Smt.Preet Kamal Kaur by means of impugned transfer deed. The claim of the plaintiffs was rejected by giving valid reasoning. I do not see any reason to disagree with the Courts below with such conclusions drawn by those Courts. The suit of the plaintiffs was rightly dismissed by the trial Court and the judgment and decree were rightly upheld by the lower Appellate Court. There is no reason to interfere therewith.

No substantial question of law arises in this appeal.

Therefore, I do not find any merit in the present appeal and do not see any reason to disturb the legal, valid and well reasoned judgments and decrees passed by the Courts below.

The appeal stands dismissed accordingly.

19.8.2019  
Brij

(H.S.MADAAN)  
JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**

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