

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

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Date of decision: 08.03.2019

RSA-600-2012 (O&M)

KANTA RANI & ORS.

... Appellants

Versus

VINOD KUMAR & ORS.

... Respondents

RSA-686-2012 (O&M)

KANTA RANI & ORS.

... Appellants

Versus

NAROTTAM SINGH & ORS.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. JS Dadwal, Advocate for the appellants.
Mr. Sandeep Jasuja, Advocate for the respondents.

REKHA MITTAL, J. (Oral)

This order will dispose of RSA Nos.600 and 686 of 2012 as identical questions of law and fact are involved for adjudication. For brevity of reference, facts are taken from RSA No.600 of 2012.

The present appeals direct challenge against judgment and decree dated 07.11.2011 passed by the Additional District Judge, Moga whereby two appeals arising out of judgment and decree dated 03.02.2009 passed by the trial Court were disposed of and findings given by the trial Court on all the issues were reversed and decided in favour of defendants No.9 and 10/appellants therein and against the plaintiffs/respondents No.1 to 3 therein.

Counsel for the appellants would argue that the appellants claimed 3/8th share in suit property on the basis of natural succession to Smt. Devki Devi wife of Ved Parkash, their mother. Ved Parkash defendant No.1 raised a plea that Devki Devi executed registered Will dated 21.06.1993 in his favour. Defendants No.9 and 10 are the purchasers of suit property from Sh. Ved Parkash vide sale deeds dated 18.09.2001 executed during pendency of the suit, therefore, they are transferees pendente lite. The trial Court rejected Will dated 21.06.1993 propounded by defendant No.1.

Counsel for the parties have fairly conceded that there is no finding recorded by the Appellate Court in respect of the Will in question nor set aside findings of the trial Court with regard to Will propounded by Ved Parkash. The Appellate Court accepted the appeal filed by purchasers primarily on the ground that they are bonafide purchasers for consideration.

Counsel for the parties are ad idem that judgment and decree dated 07.11.2011 passed by Appellate Court may be set aside and the matter be remitted to the Appellate Court for decision of the appeals afresh.

In view of the above, the appeals are allowed. The judgment and decree passed by the Appellate Court is set aside and the matter is remitted to the successor Court of Sh. Harpal Singh, the then Additional District Judge, Moga for decision of the appeals afresh, in accordance with law. Parties through their counsel are directed to appear before the Appellate Court on 03.04.2019. The Appellate Court shall decide the appeals within three months of the parties putting in appearance.

08.03.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No