

RSA-2682-2016 (O&M)

105

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

**RSA-2682-2016 (O&M)
Date of decision : 30.04.2019**

Mohinder Singh

... Appellant

Versus

Nasib Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Dinarpur, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff, having been disgruntled on account of act of his father-Munshi, who by virtue of the decree of 1994, transferred the entire share in the property in favour of the defendants his sons and brothers of the plaintiff, has not been successful in seeking the possession of land measuring 27 kanals 15 marlas, before the trial Court as well as the lower Appellate Court.

The plaintiff alleged that the decree required registration as the defendants did not have the pre-existing rights and they had played fraud upon him as he had right in the property by birth.

The defendants opposed the suit and denied all the averments and also taken the objection qua limitation as the decree was reflected in the revenue record, but no steps were taken to challenge the same, though Munshi died, in the year 2010 and the suit was filed in 2011.

RSA-2682-2016 (O&M)

Mr. Dinarpur, learned counsel appearing on behalf of the appellant-plaintiff submitted that even if, the property was self acquired, it was a decree of *in praesenti* and therefore, required registration as in the cross-examination, date or month of the alleged family settlement, could not be told, despite the fact that previous decree reveals the some family settlement, of which, the plaintiff was not the party.

I am afraid the aforementioned argument is not sustainable, for, as per the documentary evidence, the nature and character of the property was not ancestral, but self acquired. Munshi could deal with the property, during his life-time, in any manner, he wanted to. The previous decree was as a result of family settlement. The decree did not require registration as the defendants had pre-existing right. The plaintiff had no right to assert any claim in the property, in view of the nature and character of the property not being ancestral/coparcenary.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Dinarpur, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination. No ground is made out for interference.

Resultantly, the second appeal is dismissed.

30.04.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**