

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

**RSA No.406 of 2016 (O&M)
Date of Decision.25.03.2019**

Dilawar Singh (since deceased) through LR's and others ...Appellants

Vs

Risali Devi and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Kiranjeet Kaur, Advocate for
Mr. Ravinder Malik (Ravi), Advocate
for the appellants.

-. -

AMIT RAWAL J. (ORAL)

C.M. No.1207-C of 2016

For the reasons stated in the application, delay of 27 days
in filing of the appeal is condoned.

Application is allowed.

RSA No.406 of 2016

The present regular second appeal is directed against the
judgment and decree of the lower Appellate Court whereby finding of
the trial court dismissing the suit of the respondent-plaintiff claiming
declaration and consequential relief despite holding the sale deed
dated 31.12.1981 in favour of plaintiff to be genuine, has been
reversed.

Respondent-plaintiff instituted the suit on the premise
that as per the sale deed dated 31.12.1981, Teja Singh, predecessor-
in-interest of the defendant executed the sale deed in respect of land
measuring 6 kanals in equal share. However, the same was not

reflected in the revenue record. Taking advantage of the same, on demise of Swaran Singh, predecessor-in-interest of the plaintiff in whose favour Teja Singh, who also died, executed a sale deed. Defendants propounded the relinquishment deed dated 21.12.2006. Repeated requests for correction of the revenue record were not acceded to.

Defendants opposed the suit and raised objection qua limitation and denied that Teja Singh had at no point of time executed the sale deed in favour of Swaran Singh.

Since the parties were at variance, trial Court framed following issues:-

- “1. Whether the plaintiffs are entitled to a decree for declaration as prayed for? OPP*
- 2. If the issue No.1 is proved, whether the plaintiffs are entitled for a decree for permanent injunction as prayed for? OPP*
- 3. Whether the suit of the plaintiffs is not legally maintainable in the present form? OPD*
- 4. Whether the plaintiffs have no locus-standi and cause of action to file the present suit? OPD.*
- 5. Whether the plaintiffs have not come to the court with clean hands and has concealed the true and material facts from this Court? OPD*
- 6. Relief.”*

Plaintiffs examined as many as five witnesses including Numberdar PW5, one of the attesting witnesses and scribe of the sale

deed PW4 Mai Lal whereas defendants examined two witnesses and tendered documents Ex.D1 to D3.

The trial Court though rendered the finding in favour of the plaintiff but dismissed the suit on the ground of limitation, which was reversed by the lower Appellate Court.

Learned counsel for the appellants submitted that the suit was filed in 2007 and therefore, was *ex facie* barred by law of limitation. Holding back of the sale deed and its non-reflection in the revenue record would definitely show that there was some hanky-panky or Teja Singh did not execute the sale deed. Plaintiff did not take any steps for correction of the revenue record, therefore, the suit was liable to be dismissed by confirming the finding of trial Court.

I am afraid aforementioned argument is not sustainable, for cause of action for the plaintiff only accrued in 2006 owing to propounding of relinquishment deed. The law of limitation on this point is no longer *res integra*, in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Ibrahim @ Dharam Vir Vs. Sharifan @ Shnati 1980 AIR Pb 25** wherein it has been held that where there is cloud over title or possession, there is no limitation and cause of action can be accrued. There was no objection with regard to affirmation of sale deed. The only point to be considered was limitation, which has been answered in the aforementioned manner.

In view of such circumstances, I do not find any illegality and perversity in the judgment and decree rendered by the lower Appellate Court, much less, no substantial question of law

arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 25, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No