

RSA-4116-2015 (O&M)

102

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

RSA-4116-2015 (O&M)

Date of decision : 18.01.2019

Nirmala Devi (deceased) through LRs and another

... Appellants

Versus

Rajpal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surender Saini, Advocate
for the appellants.

Mr. Ashish Pannu, Advocate
for respondent Nos.1, 2, 4 to 6 and 8/Caveators.

AMIT RAWAL, J. (ORAL)

The present regular second appeal is directed against the concurrent findings of fact, whereby the appellants-plaintiffs have not been successful in claiming the declaration and joint possession with consequential relief of permanent injunction by challenging the release deed dated 20.08.2007 in favour of defendant No.1.

It was averred that Jai Pal, husband of plaintiff No.1, died, but he along with his father Gopi Ram and Har Kishan, brother of Gopi Ram, during his life-time had executed a release deed dated 20.08.2007 including his personal share in favour of defendant No.1, which was ancestral in nature and was, thus, illegal, null and void. There was no dispute with regard to the half share which he derived by virtue of the will as it was self acquired. In order to establish the nature and character of the property as

RSA-4116-2015 (O&M)

ancestral, pedigree table (Ex.P6), had been brought on record as well as jamabandis (Ex.P5, Ex.P7, Ex.P8 and Ex.P9).

Learned counsel for the appellant submitted that the aforementioned jamabandis established the nature and character of the property as ancestral, much less, pedigree table. Non-examination and proof of excerpt from the competent authority through the testimony of the revenue expert was inconsequential, once the recital in the release deed, reflects the nature of the property as ancestral. Gopi Ram/defendant No.2, one of the signatory of the release deed and father of Jai Pal, though supported the release deed, did not emphatically deny the nature and character of the property as ancestral, though, he disclosed that lease deed was executed for performance of the marriage of plaintiff No.2, in the year 2006, thus, there is illegality and perversity.

I have heard learned counsel for the appellants, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Saini, as the no evidence to prove the performance of the marriage of plaintiff No.2 in the year 2006, has been brought on record. Revenue excerpt is the essential document to establish the transfer of property from the great grand father as ancestral, at the hands of Gopi Ram, so that, Raj Pal and Jai Pal, could have claimed the right being 4th generation in lineage, as the jamabandis, aforementioned, do not reflect such fact. One of reason to belie the stand of the plaintiffs is that Gopi Ram defended the release deed.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no

RSA-4116-2015 (O&M)

3

substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

18.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**