

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4669 of 2015

Date of Decision: March 11, 2019

Baljit Kaur

...Appellant

Versus

Surjit Kaur & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Kiran Bala Jain, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in claiming declaration laying challenge to the sale deed dated 29.10.2004 executed by the defendants alleging to be the successor-in-interest of Bakshish Singh before the trial Court and as well as in appeal.

It was alleged that plaintiff, vide sale deed dated 02.09.1992, purchased land measuring 12 kanals 10.5 marlas bearing khasra Nos.36, 12, 9, 8, 3, 7/1, 29, 4/1, 7/2, 34/23. He was the owner of entire land measuring 37 kanals 19 marlas. As per averments in Paras 3 and 4 of the plaint, alleged to have sold the entire land and was left with no ownership. On 27.05.1995, Bakshish Singh died and mutation of inheritance, without any title was sanctioned in favour of the defendants on 25.11.1997.

The defendants opposed the suit and stated that the impugned sale deed was out of khasra No.36/3 measuring 2 kanals 1 marla of Hadbast No.43 of Village Mandour, District Ambala.

Ms. Kiran Bala Jain, learned counsel representing the

appellant-plaintiff submitted that the details given in Paras 3 and 4 of the plaint fortified from the contents of the sale deed and various other sale deeds Ex.P3 to Ex.P22 including the mutation reflected that Bakshish Singh was not left with any ownership. The defendants by taking undue advantage of the mutation entered in favour of the plaintiff of 12 kanals 10.5 marlas sold the land without any title and right and, therefore, it was an unalienable. The entire evidence reflected that Bakshish Singh was left with no land out of 37 kanals 19 marlas, thus, there is illegality and perversity.

I have heard the learned counsel for the appellant-plaintiff, appraised the paper book, records of the courts below and of the view that there is no force and merit in the submissions of the learned counsel.

By noticing the sale deed Ex.P18 (at page 199 of the trial court record), the khasra numbers, referred to above, are not the part of the sale deeds. There is no recital as to how much area of sub-divided khasra numbers was there. Khasra No.36//3 was having an area of 6 kanals 10 marlas, whereas the sale deed impugned from the same khasra number is of 2 kanals 1 marlas. There would have been force in the argument had each sub-divided khasra number would have reflected the area, though the contents of Para 3 of the plaint reflected only the area, but not the khasra numbers. For all intents and purposes, the plaintiff miserably failed to discharge the onus to connect the area of khasra number vis-a-vis the sale deeds, referred to above, to establish that Bakshish Singh was not holding any right and title. There is no compliance of the provisions of Section 101 of the Indian Evidence Act.

For the reasons mentioned above, I do not find any illegality or

perversity in the concurrent findings of fact, which are based upon appreciation of oral and documentary evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

March 11, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No