

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

R.S.A. No. 3207-2014 (O&M)

Date of decision:- 09.07.2019

Vikram Verma

...Appellants

Versus

Vijay Kumar Verma and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. M.K. Singla, Advocate
for the appellants.

Mr. Ashok Kr. Bhardwaj, Advocate
for respondent Nos. 3, 4, 9 and 10

RITU BAHRI J. (Oral)

The present appeal is directed against concurrent find of fact recorded by both the Courts below whereby suit filed by plaintiff/appellant for declaration to the effect that suit land fully detailed and described in the head note of the plaint is ancestral and coparcenary property of Joint Hindu Family, has been dismissed

On notice of the suit, defendant Nos. 1, 3, 6 to 10 filed joint written statement raising objections that plaintiff/appellant is neither coparcenar nor the suit property is coparcenary property. The plaintiff and defendant Nos. 1 to 3 did not constitute joint Hindu Family. Vaid Bisheshra Nand was father of defendant No. 1 who had some property at village Gaggarpur. It was denied if disputed property was purchased by defendant No. 1 out of sale consideration of inherited property. Defendant Nos. 6 to 9 claimed that they are bona fide purchasers for valuable consideration.

Defendant Nos. 2 to 5 also filed written statement admitting the claim of plaintiff while defendant No. 4, 11 and 12 filed separate written statement

on the some lines of defendant No. 1.

Replication was filed. From the pleading of the parties, the following issues were framed:-

- 1. Whether the suit land is coparcenary land of plaintiff and defendant Nos. 1 to 3?OPP*
- 2. Whether the defendant No. 1 as Karta sold the disputed land in favour of defendant Nos. 4 to 12 without any legal necessity and without consideration?OPP*
- 3. Whether the plaintiff is entitled to declaration as prayed for?OPP*
- 4. Whether plaintiff is entitled to possession of the suit property?OPP*
- 5. Whether plaintiff is entitled to injunction as prayed for?OPP*
- 6. Whether the plaintiff has no cause of action to file the present suit?OPD*
- 7. Whether the suit is within time?OPP*
- 8. Whether defendants no. 4 to 12 are bonafide purchasers for the value and without notice? OPD*
- 9. Whether the suit is properly valued for the purpose of Court fee and jurisdiction? OPD*
- 10. Relief*

Both the Courts below rightly dismissed the suit of the plaintiff by observing that plaintiff has examined Patwar Moharrir Ram Dayal, but he has not brought the original record, as is clear from his cross-examination. Further in his cross examination, Patwar Moharrir Ram Dayal admitted that as per note on Page No. 7, the coparcenary came to an end and specific khasra numbers were given to each co-sharer. Page 7 of the excerpt shows that it is regarding mutation of partition amongst the sons of Bisheshar Nand entered in the year 1963. It was duly proved that defendant

No. 1 has legal necessity to alienate the suit land and it is admitted by the

appellant in the plaint that defendant No. 1 has spent considerable fortune on the marriage of his daughters. Thus, the impugned sale deeds executed by defendant No. 1 in favour of defendant Nos. 4 to 12 were executed for legal necessity

Accordingly, the concurrent findings of facts recorded by both the Courts does not require any interference by this Court

No substantial question of law arises for adjudication by this Court.

The appeal stands dismissed.

09.07.2019

G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No