

101

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

**RSA No.1635 of 2018 (O&M)
Date of Decision: 30.01.2019**

RAM KISHAN

.....Petitioner/Appellant

Vs

SARLA DEVI

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Mohit Rathee, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Plaintiff is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration and permanent injunction.

[2]. Plaintiff filed the aforesaid suit on the ground that father of the plaintiff namely Hari Ram was owner in possession of the agricultural land measuring 58 *Kanals* 7 *Marlas*. After his death, the agricultural land along with residential property in *abadi* were inherited by his sons namely Ram Sukh, Radhey Shayam and Ram Kishan in equal shares. Ram Sukh and Ram Kishan plaintiff were living in joint family. Ram Sukh transferred his entire share in favour of the plaintiff vide civil court decree dated 03.08.1984 to the extent of his share i.e. 7/24th shares i.e. 17

Kanals 0 Marla.

[3]. The aforesaid transfer was made because wife of Ram Sukh had left him and he was being looked after by the plaintiff and his family members till his death. Smt. Meera Bai widow of Ram Sukh filed a civil suit No.554 dated 17.01.1998 for declaration, challenging the civil court decree dated 03.08.1984 being illegal and fraudulent. The suit was decreed on 07.08.2003. Plaintiff remained unsuccessful in appeal before the lower Appellate Court which was dismissed on 08.02.2006 and also in Regular Second Appeal which was dismissed by the High Court. Even an effort to trace out the record of case title '*Ram Kishan vs. Ram Sukh*' plaintiff remained unsuccessful when CR No.6605 of 2008 was dismissed.

[4]. Plaintiff claimed that Smt. Meera Bai allegedly obtained civil Court decree dated 07.08.2003 passed by the trial Court and decree dated 08.02.2006 passed by the lower Appellate Court in collusion, therefore, the same were not binding upon the plaintiff. Meera Devi on the basis of civil Court decree dated 07.08.2003 sold 9 *Kanals* 9 *Marlas* of land vide sale deed dated 14.10.2010 in favour of the defendant and mutation was also sanctioned. The said sale deed has been assailed by the plaintiff.

[5]. I have considered the submissions made by learned

counsel for the appellant.

[6]. The issue regarding title of the share belonging to Ram Sukh has already been decided by in favour of Meera Bai in the previous litigation. Plaintiff has no actionable right in respect of property left by Ram Sukh in any manner. The findings recorded by the Courts below on the rights of plaintiff viz-a-viz. the suit land in the context of Section 11 CPC cannot be held to be on account of misreading of evidence or any perversity. The issue was directly and substantially involved in the previous litigation and the same was decided against the plaintiff/appellant. The decision has already attained finality and the plaintiff was bound by the said decision and was estopped from questioning the title of Meera Bai, who had sold the property in favour of defendant on the basis of her title arising out of civil Court decree dated 07.08.2003 which was upheld by the lower Appellate Court on 08.02.2006 and further upheld by the High Court in RSA.

[7]. The sale deed dated 14.10.2010 on the basis of aforesaid title in respect of 19 *Kanals* 9 *Marlas* of land cannot be held to be without title and the plaintiff/petitioner has no right, title and interest in the property so sold by Meera Bai in favour of the defendant.

[8]. For the reasons recorded hereinabove, I find no illegality in the impugned orders passed by the Courts below.

This appeal is accordingly dismissed.

[9]. Since the appeal has been dismissed on merit, therefore, there is no necessity of passing any order in the application for condonation of delay of 50 days in filing the appeal. The same is accordingly disposed of along with all other misc. applications, if any.

January 30, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No