

In the High Court of Punjab and Haryana at Chandigarh

RSA- 1920 of 2018(O&M)
Date of Decision: 12.4.2019

Devi Chand

---Appellant

versus

Smt. Sudesh Rani and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Munish Mittal, Advocate
for the appellant**

Rekha Mittal, J.

CM No. 5296-C of 2018

Heard.

Allowed as prayed for.

Disposed of accordingly.

CM No. 5297-C of 2018

Prayer in this application is for condoning delay of 111 days in refiling the appeal.

In view of averments made in the application supported by an affidavit of Sh. Munish Mittal, Advocate, counsel for the applicant and arguments advanced, application is allowed and delay of 111 days in refiling the appeal stands condoned.

Disposed of accordingly.

RSA-1920 of 2018

The present appeal directs challenge against concurrent

findings recorded by the courts whereby suit for declaration and permanent injunction filed by the appellant by claiming the suit property in the hands of Sh. Kurra, his father to be ancestral coparcenary property, therefore, sale deed No. 2532 dated 12.1.2010 executed by Sh. Kurra in favour of Smt.

Sudesh Rani, daughter-in-law of said Kurra was dismissed by the trial court vide judgment and decree dated 24.4.2013 and the same was affirmed by the Additional District Judge, Yamuna Nagar at Jagadhri, vide judgment and decree dated 27.2.2017.

Counsel for the appellant would argue that appellant is the son of Kurra and as such he acquired right by way of birth in the suit land which was ancestral coparcenary property in the hands of his father Sh. Kurra and as such Kurra was not competent to alienate suit property by way of sale deed dated 12.1.2010.

I have heard counsel for the appellant, perused the paper book but find that the appeal is devoid of merit and deserves to be dismissed.

The courts have consistently held that the appellant-plaintiff has failed to establish his plea that suit land is ancestral coparcenary property in the hands of Sh. Kurra or Sh. Kurra was not competent to alienate the land owned by him. There can not be dispute about the settled position in law that every property is deemed to be self-acquired property of the holder unless proved otherwise. Counsel has failed to point out any materials on record on the basis whereof it is open for him to argue that concurrent findings of fact recorded by the courts suffer from an error much less perversity warranting intervention. The challenge to sale deed dated 12.1.2010 on the ground of fraud and misrepresentation etc. is otherwise not

tenable as executant thereof is defendant No. 3 who has contested claim of the plaintiff. Analyzed from any angle, I do not find any reason to interfere in the judgments passed by the courts.

For the foregoing reasons, findings no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

12.4.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No