

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

**RSA No.3224 of 2017 (O&M)
Date of Decision.27.05.2019**

Ram Singh and others

...Appellants

Vs

Rikhi Ram (since deceased) through LRs and others ...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Bedi, Advocate
for the appellants.

-:-

AMIT RAWAL J. (ORAL)

C.M. No.7936-C of 2017

For the reasons stated in the application, delay of 117 days
in re-filing of the appeal is condoned.

Application is allowed.

RSA No.3224 of 2017

The appellants are defendants No.1 to 4 in the present appeal against the decretal of the suit whereby respondents No.1 to 10, plaintiffs, claimed that defendants No.1 to 4 i.e. Ram Singh and legal representatives of Gian Singh were left with no share in the suit land, owing to transfer by way of two sale deeds dated 09.02.1959 and declaration of ownership by challenging mutations No.270 and 271 i.e. correction of the revenue record. It was alleged that by virtue of the sale deed dated 09.02.1959, the predecessor in interest of plaintiff No.2 to 8 and plaintiff No.1 purchased 12 kanals of land from defendant No.1 Ram Singh, Gian Singh predecessor of defendants No.2 to 4 and Ram Parshad predecessor of defendant No.14 to 16 for valuable consideration and possession was delivered. The details of

sale deeds were given in extenso and possession was said to be uninterrupted. Despite that defendants wanted to take forcible possession and when approached the revenue authorities found that there were incorrect entries in the name of defendants No.1 to 4, thus, suit aforementioned was filed.

Defendants No.1 to 4 filed joint written statement and raised the objections qua non-maintainability, limitation, cause of action, concealment of true facts and alleged that there was a complete silence for 49 years in not seeking rectification of the revenue record.

Defendants No.5 to 17 were proceeded ex parte.

Plaintiffs in support of pleadings examined plaintiff No.9 as PW1 and tendered documents Ex.PW1/A, Ex.P1 to P5 i.e. sale deeds and mutations and revenue records, Ex.P6 death certificate and Ex.P7 to P-17 i.e. jamabandies and various other documents. On the other hand, defendants examined two witnesses and closed evidence.

The trial Court decreed the suit and so did the lower Appellate Court by dismissing the appeal.

Mr. Bedi, learned counsel appearing on behalf of the appellants submitted that the suit was not maintainable. Both the Courts below have gone into arena of conjectures and surmises as both defendants were minors and though the sale was made by the guardian but character and nature of the property was ancestral, therefore, there was no occasion to give observation regarding sale by the Karta to be valid. The suit was emphatically barred by law of limitation having not availed remedy for seeking correction in the revenue entries.

There is no dispute to the ownership of parties but the suit was not

maintainable and liable to be dismissed on account of limitation.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit. The law with regard to limitation qua inheritance and declaration is no longer *res integra* in view of the law laid down by Full Bench of this Court in **Ibrahim @ Dharam Vir Vs. Sharifan @ Shnati 1980 AIR Pb 25** wherein it has been held that cause of action to seek declaration would only arise when there is a threat of possession or title. It is only in these circumstances, which were duly explained, suit aforementioned has been filed. There would have been force in the argument of Mr. Bedi, had there been a counter-claim set up in challenging sale deeds being without any authority. Registered documents carry presumption of truth unless and until the same are set aside in accordance with law. This view of mine is derived from the ratio decidendi culled out by Hon'ble Supreme Court in **Satya Pal Anand Vs. State of M.P. and others 2016 (4) RCR (Civil) 904.**

In this view of the matter, I do not find any illegality and perversity in the concurrent finding of fact and law rendered by Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

May 27, 2019
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No