

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

RSA No.479 of 2018(O&M)
Date of decision: 17.10.2019

Sunita and others

... Appellants

Versus

Satbir and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Adarsh Jain, Advocate, for the appellants.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiffs/appellants was dismissed by the trial Court vide judgment and decree dated 12.03.2015. And as even the appeal preferred against the said decree failed and was dismissed by the appellate Court on 28.09.2017, they are before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Plaintiffs prayed for a declaration that sale deed dated 21.08.2008 in favour of defendant No.2 and sale deed dated 15.01.2009 executed by defendant No.2 in favour of defendant No.4 are wholly illegal, null and void, for, the plaintiffs were owners in possession of the suit property marked by letters ABCD, shown in red colour in the site plan appended with the plaint. And also for injunction restraining the defendants from causing interference in his possession.

In brief, the case set out by the plaintiffs was that they along with defendant No.1 were owners in possession of the suit property, which

was purchased out of Joint Hindu Family funds in the name of defendant No.1 vide sale deed dated 26.07.2004. For defendant No.1 was a man of vices, defendants No.2 & 3 by taking undue advantage of his bad habits got his signatures on some blank papers and forged a sale deed alleged to have been executed by defendant No.1 in favour of defendant No.2. And defendant No.2 in turn transferred the suit property in favour of defendant No.4 vide sale deed dated 15.01.2009. But as the defendants declined to acknowledge the ownership of the plaintiffs over the suit property, thus, the suit.

In the written statement filed by defendant No.1, he virtually admitted the case of the plaintiffs and maintained that defendant No.3 had obtained his signatures on some blank papers and he was not even paid any sale consideration.

However, in the written statement filed by defendants No.2 & 3, it was pleaded that in fact the suit property was self acquired property of defendant No.1, for, he purchased the same pursuant to a sale deed dated 26.07.2004. Defendant No.1 sold the suit property to defendant No.2 on 21.08.2008, whereafter it was sold to defendant No.4 on 15.01.2009. The claim of the plaintiffs that they constitute undivided Hindu family and the suit property was purchased out of undivided Hindu Family funds was denied. Accordingly, it was prayed that the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that specific case set out by the plaintiffs was that the suit property was purchased out of common funds of a Joint Hindu Family. Concededly, the sale deed dated 26.07.2004 (Ex.D1) was executed by Himmat Singh and Dalbir Singh in favour of

defendant No.1, which showed that he was the exclusive owner of the suit property. But the plaintiffs failed to prove that sale consideration was paid out of Joint Hindu Family funds. No evidence was brought on record either to show that any such corpus or funds ever existed. Rather to the contrary, plaintiff had conceded in her cross-examination that all the expenses of her family were borne by her husband, namely, Satbir (defendant No.1), and defendant No.1 was residing with them and looked after the family. Further, she was a household lady and was not earning anything. If that was so, it could not be believed that the suit property was purchased by Satbir out of funds of the Joint Hindu Family or from a common pool. Not just that, the plaintiffs, in support of their claim examined Vinod (PW3), brother of plaintiff No.1, who deposed that in the year 2004 he had given Rs.1 lac to his sister, however, he failed to explain as to from where and how he managed Rs.1 lac. Even otherwise, that was hardly a factor to alter the nature of the property from being self acquired property in the hands of defendant No.1. Though the sale deed dated 21.08.2008 was assailed on the ground of fraud, but no evidence was led to substantiate the said plea. Even otherwise, both the sale deeds in question, Ex.D2 & Ex.D3, were registered documents and carried presumption qua their execution and veracity in terms of Section 34 of the Registration Act. Significantly, defendant No.1 himself did not choose to file a suit and question the validity of the sale deeds if at all any fraud was played upon him. Rather, the evidence on record showed that plaintiffs filed the present suit in collusion with defendant No.1.

On being pointedly asked, learned counsel for the appellants failed to refer to anything on record to show if the conclusions recorded by

the Courts were either contrary to record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts.

The appeal being devoid of merit is, accordingly, dismissed.

(Arun Palli)
Judge

17.10.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO