IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.5581 of 2017 (O&M)
Date of decision : 29.03.2019

Lachhmi

...Appellant

Versus

Raghbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deepak Girotra, Advocate for the appellant.

Mr. Karan Singh, Advocate for the respondents.

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ANIL KSHETARPAL, J. (ORAL)

CM No.14757-C of 2017

For the reasons stated in the application, which is duly supported by an affidavit, delay of 195 days in filing the present appeal is condoned.

Application is allowed.

Main case

Plaintiff-appellant is in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below.

Plaintiff claims that she is daughter of late Sh. Randhir Singh who was son of late Sh. Chottu Ram who was having five children-Raghbir Singh, Savitri, Smt. Prem, Dharam Kaur and Randhir Singh. Randhir Singh died on 23.12.1964. Thereafter his widow Sahab Kaur entered into a *kareva*

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marriage with Raghbir Singh. Chottu also died in the year 1979. Lachhmi-plaintiff was married. When Chottu Ram died, mutation of inheritance was sanctioned in favour of Raghbir, Savitri, Smt. Prem, Dharam Kaur and Misri Devi i.e. widow. Thereafter, Smt. Misri by dint of decree dated 12.09.1992 transferred the property while acknowledging Krishan son of Raghbir to be owner. In the year 1999, Raghbir, Savitri, Smt. Prem and Dharam Kaur also transferred the property in favour of Krishan as per family settlement. Krishan thereafter transferred the property vide sale deed dated 07.08.2006. Plaintiff filed a suit challenging the mutation dated 13.06.1981 with regard to the death of Chottu Ram. Plaintiff when appeared in evidence has admitted that she was in knowledge of these developments. Thus, the Courts have held that the suit filed by the plaintiff after a lapse of 25 years is beyond time.

Both the Courts have also held that defendant No.5, who is not a member of the family, is a bona fide purchaser for valuable consideration and, therefore, his rights are to be protected.

Learned counsel for the appellant has submitted that the plaintiff being class-1 heir of Randhir Singh, is entitled to 1/6th share in the property. However, it is doubtful as to whether the plaintiff would be entitled to 1/6th share because Randhir Singh had left behind two class-1 heirs namely Sahab Kaur-widow and Lachhmi-plaintiff. In any case, plaintiff at this stage can only claim right to recover proportionate amount of sale consideration from Krishan particularly when the plaintiff was having knowledge and did not object at appropriate time. Thus, the findings of both the Courts that defendant No.5 is a bona fide purchaser for valuable

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consideration are affirmed.

It is undisputed that the plaintiff was born on 12.09.1964 and she attained majority in the year 1982 whereas suit was filed in the year 2006 only after the sale in favour of defendant No.5.

In view of what has been observed above, the present Regular Second Appeal is dismissed.

29.03.2019 **(ANIL KSHETARPAL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**

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