

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.5585 of 2017 (O&M)
Date of Decision: May 20, 2019

Bichha Ram (deceased) through L.Rs

...Appellant

Versus

Ved Parkash

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Rishab Lohan, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in claiming declaration by challenging the registered release deed dated 30.05.2008 and mutation No.1411 dated 13.10.2008 executed by Shobha Ram in favour of the defendant.

It was alleged that during his life time, Shobha Ram had executed a Will dated 20.11.2011 expressing his intention of equal distribution amongst two sons, but the same was allegedly cancelled on 30.05.2008 on the premise that plaintiff had already been taken care of as father had extended help for raising construction and other half was given to the defendant.

Both the parties led extensive evidence. Plaintiff examined as many as three witnesses and brought on record documents Ex.P1 to Ex.P6, whereas the defendant examined three witnesses and also brought on record Ex.D1 to Ex.D7 and Ex.DW1/A.

Mr. Rishab Lohan, learned counsel appearing on behalf of the appellant-plaintiff submitted that the release deed is in respect of the

ancestral property and not of self-acquired. The revenue record reflected the ownership as self-acquired. Defendant had played a fraud and misrepresentation. Shobha Ram died in 2010. The factum of the aforementioned release deed was not in the knowledge and on acquiring the same, suit filed on 13.01.2011 could not have been thrown out by the courts below.

I have heard the learned counsel for the appellant-plaintiff, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel, for, the mutation of the same was effected in October, 2008. It was during the life time as Shobha Ram, father of the parties, died later on in 2010. It cannot be said that the mutation was not in his knowledge and the plaintiff turned dishonest only after the demise of his father and tried to shift undue burden upon the defendant by filing the suit only after the death of their father and so his silence during the lifetime of Shobha Ram also draws an adverse inference. In my view, the appellant-plaintiff had acquiesced the act of his father, which, as per the ground reality was actually equal distribution.

For the reasons mentioned above, I do not find any illegality or perversity in the concurrent findings under challenge, which are based upon appreciation of oral and documentary evidence. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

May 20, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No

