

RSA-576-2017 (O&M)

121

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

RSA-576-2017 (O&M)

Date of decision : 05.03.2019

Bhagwant Singh

... Appellant

Versus

Kiranpal Kaur

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjiv Gupta, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-Bhagwant Singh, who was the defendant in a suit filed by Kiranpal Kaur, set up a counter-claim, therefore, in the memo of parties, he has been shown as plaintiff, for, the suit filed by Kiranpal Kaur, claiming declaration of having owner to the extent of half share, on the basis of the Will dated 19.06.1996, which has been dismissed, in default.

In the counter-claim, Bhagwant Singh, indirectly sought two relief of having acquired the ownership under the Exceptions of the Benami Transactions (Prohibition) Act, 1988 as Kiranpal Kaur was real daughter of Gurkirpal Singh Sohi, but in the sale deed, shown to be daughter of Sukhdev i.e. brother of Bhagwant Singh-appellant.

Counter-claim has been dismissed by the trial Court and affirmed in appeal.

Mr. Sanjiv Gupta, learned counsel appearing on behalf of the appellant-counter-claimant submitted that no doubt the sale deed is dated

RSA-576-2017 (O&M)

19.06.1996, but Gurkirpal Singh Sohi, was the biological parent. The entries in the revenue record were sought to be corrected by taking the benefit of Section 26 of the Specific Relief Act, as it was a case of rectification of the sale deed *ibid*.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, counter-claim was set up only after 2015, when the suit was filed, whereas the sale deed is of 1996. It can be assailed only within three years. Even otherwise, after promulgation of the Prohibition of Benami Property Transactions Act, 1988, no property could be purchased i.e. in 1996 under benami as the status of Kiranpal Kaur was not falling within the exceptions, being a co-parcenary or having a fiduciary capacity. All these factors weighed in the mind of the Courts below.

As an upshot of my finding, I do not subscribe to the submissions of Mr. Sanjiv Gupta, to form a different opinion than the one already arrived at by the Courts below, much less, no substantial question of law arises for determination.

Resultantly, the second appeal is dismissed.

05.03.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**