

In the High Court for the States of Punjab and Haryana at Chandigarh

RSA-5770-2017 (O&M)
Date of Decision: March 13, 2019

Shakil and others

... Appellants

Versus

Sahidan and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surinder Dagar, Advocate,
for the appellants.

Amit Rawal, J. (Oral)

Appellants-plaintiffs are none-else but the nephews of Badhan, whose estate has been claimed by challenging to the sale by defendant no.1, widow of Badhan. It was alleged that parties are governed by custom and as per the custom which prevented the widow to acquire the full ownership, but only a life estate. Out of the wedlock of Sahidan, there was no child. Defendant no.2 claimed himself to be the bona fide purchaser for a valuable consideration. Both the parties led their extensive evidence.

Mr. Surinder Dagar, learned counsel, appearing on behalf of the appellants submitted that defendant no.1 in her written statement admitted life estate right in the property. In such circumstances, Courts below ought not to have fasten the liability for discharging the burden of custom.

I have heard learned counsel for the appellant, perused the paper book and of the view that afore-mentioned argument is not sustainable, for, it was obligatory upon the plaintiffs to plead and prove that

as per the prevailing custom widow had only a life estate and not otherwise. In the absence of the same, the said pleaded precedent cannot be said to be constitutional taking away the right of the widow to sell the property during the life time was on account of devolution of interest and on demise of her husband.

In view of such circumstances, I do not find any illegality and perversity in the concurrent finding of fact rendered by the 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.

March 13, 2019
vkd

(Amit Rawal)
Judge

Whether reasoned / speaking : Yes

Whether reportable : No