

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.6392 of 2017 (O&M)

Date of Decision: January 24, 2019

Laxmi Narain

...Appellant

Versus

Vijay Kumar & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Ashok Kumar Sharma, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff has not been successful in claiming declaration and injunction against the respondent-defendants by challenging the sale deed dated 02.04.2007 executed by defendant No.10 beyond his share in view of the family settlement of 1995 and against the decree of 1991.

It was alleged that a family settlement amongst three brothers, i.e., the plaintiff, defendant No.10 and third one was entered into in 1995, which got the accord of the Court by virtue of judgment dated 05.02.1991, but due to the some reason or inadvertence was not reflected in the revenue record. Defendant No.10 had sold the land beyond his share and in such circumstances, cause of action accrued.

Mr. Ashok Kumar Sharma, learned counsel appearing on behalf of the appellant-plaintiff submitted that once the decree was not reflected in the revenue record, parties were required to honour and respect the same.

Any sale deed beyond the decree which had already determined the title and share of the parties was without jurisdiction and title.

I am afraid, the aforementioned argument is not sustainable, for, the plaintiff, who sought the relief, had not approached the court with clean hands as had already mortgaged the land of more than his share belonging to the defendants. A person who seeks equity must do equity. In such circumstances, the courts did not come to the rescue of the appellant-plaintiff.

For the reasons mentioned above, I do not find any illegality or perversity in the concurrent findings, which are based on 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 on the ground of delay and as well as on merits.

January 24, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No