

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.104 of 2017 (O&M)

Date of decision: 14.02.2019

Balwinder Kaur

..... Appellant

Versus

Mohinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. D.S. Malwai, Advocate
for the appellant.

Mr. Sherry K. Singla, Advocate
for respondents No.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

Defendant-appellant is in the regular second appeal against the judgment passed by the First Appellate Court reversing the judgment of the trial Court.

Kaka Ram, predecessor-in-interest of the defendants was owner of 83 kanals and 15 marlas of land. The suit was filed by Sohan Lal which resulted into a decree in favour of Sohan Lal dated 24.12.1986. The aforesaid decree was challenged by Kaka Ram on the ground that the judgment and decree is result of fraud and it is an ex parte decree. The suit was filed on 04.06.1987. In the meantime, Sohan Lal sold the property through three sale deeds in favour of Sukhwinder Singh, Subeg Singh and Gurdev Singh vide sale deeds dated 04.05.1990, 07.05.1990 and 08.05.1990. Kaka Ram also filed a suit challenging these sale deeds. In the aforesaid suit filed by Kaka Ram challenging the sale deeds, a compromise

was arrived at and in pursuance thereto, the suit was withdrawn on 17.08.1990. Thereafter, Gurdev Singh and Subeg Singh pursuant to the compromise executed two sale deeds dated 20.08.1990 and 23.08.1990 transferring 35 kanals and 11 marlas of land in favour of defendants No.1 and 2.

The defendants are now wanting to take benefit of the fact that the decree dated 24.12.1986 has now been set aside vide judgment and decree dated 16.10.1993. It is on this basis, the defendants claim that they are exclusive owners of the property.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below.

Once Kaka Ram had entered into a compromise with Sukhwinder Singh, Gurdev Singh and Subeg Singh and thereafter, withdrawn the suit on 17.08.1990 through which the sale in favour of these three persons were challenged and thereafter, the challenge was abandoned, now defendants-appellants cannot claim any right on the basis of decree dated 16.10.1993. In fact, it was Kaka Ram who had filed a suit on 04.06.1987. During the pendency of the aforesaid suit, he challenged the sale deed executed by Sohan Lal in 1990 referred to above and thereafter, abandoned his rights. Still further, Gurdev Singh and Subeg Singh have sold out of the total land measuring 83 kanals 15 marlas, the land measuring 35 kanals and 11 marlas vide sale deed dated 20.08.1990 and 23.08.1990.

In view thereof, the ownership of Sukhwinder Singh, Gurdev Singh and Subeg Singh was admitted by Kaka Ram and his legal heirs. Still further, the decree dated 16.10.1993 is against a dead person because Sohan

Lal has died and his legal heirs were not brought on record.

In view thereof, there is hardly any scope for interference by this Court.

Appeal is dismissed.

14.02.2019

Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No