

RSA- 1683 of 2018(O&M)
Date of Decision: 3.7.2019

Narayan Singh

---Appellant

versus

Narender Swaroop and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Sumit Gupta, Advocate
for the appellant**

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration and permanent injunction by challenging sale deed dated 7.8.1985 being illegal, null and void and obtained fraudulently as the appellant was not competent to execute sale deed of his share being minor at the relevant time was dismissed by the trial court vide judgment and decree dated 22.3.2016 that came to be affirmed in appeal by the District Judge, Palwal.

Perusal of the judgments impugned would reveal that as per case set up by the appellant-plaintiff, he was born on 5.3.1969, therefore, he was less than 18 years of age on the date of execution of the sale deed qua his share on 7.8.1985, therefore, the sale deed is liable to be set aside and the appellant is entitle to be declared as owner in possession of suit land, detailed in para 2 of judgment passed by the trial court. Even if plea of the appellant-plaintiff is accepted that he was born on 5.3.1969, he attained

majority in the year 1987 and, at best, could file a suit within three years from the date of removal of disability in respect of his minority but the instant suit to challenge the sale deed has been filed by him in the year 2014, therefore, suit filed by the appellant-plaintiff is clearly barred by limitation.

Counsel for the appellant is not in a position to challenge findings of the courts on issue No. 4 pertaining to limitation, onus whereof was rightly placed upon the appellant-plaintiff. Since suit filed by the appellant is barred by limitation, adverting to other contentions raised by the appellant would be an exercise in futility.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on merits, application for condonation of delay of 50 days in filing the appeal is of academic relevance.

(Rekha Mittal)
Judge

3.7.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No