

S.No.108

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

RSA No.1243 of 2019 (O&M)

Date of Decision:10.01.2020

Manjit KaurAppellant

Vs.

Anil Kumar and others.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Tribhawan Singla, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

This is the second appeal filed by the plaintiff in the original suit; challenging the concurrent findings recorded by the Courts below whereby the suit for declaration; that she is the owner in possession of the suit property; with a further prayer of injunction against interference in her possession, was dismissed by both the Courts below.

The facts in brief, are that the defendant- respondent No.3- Avtar Singh was the owner in possession of the suit property. The said suit property was sold by respondent No.3 to respondent No.1 vide registered sale deed dated 16.07.2001. Aggrieved against the said sale by the owner, the appellant had filed the instant suit; claiming that the respondent No.3 was the adoptive father of the plaintiff and the plaintiff was his adopted daughter. The suit property was purchased by the adopted father/ respondent No.3; out of the funds from the account of the plaintiff. Hence, essentially, the property belonged to the plaintiff. Therefore, her father had no right to transfer the said property. During the proceedings of the suit, the respondent No.3 did not appear, and therefore, was proceeded ex parte.

However, the suit was contested by respondents No.1 and 2 asserting that

they were the bonafide purchasers for consideration. They have rightly purchased the property and have become owner in possession of the said property. It was further pleaded that the seller/ respondent No.3 was the owner of the suit property as per the records and the plaintiff had no concern with the said property. Still further, it was averred in the pleadings that the plaintiff had seen the defendant No.1 constructing the room as well as boundary wall over the said property. No objection was ever raised by the plaintiff at that time. Hence, the dismissal of the suit was prayed for.

The parties led their respective evidence. The plaintiff examined witnesses only to prove on record that certain funds were withdrawn from her account in the year 1992. On the other hand, the defendants examined the witnesses to prove the sale deed in their favour.

After appreciating the respective evidence, the trial Court dismissed the suit filed by the plaintiff. Aggrieved against that judgment and decree, the plaintiff preferred an appeal before the Lower Appellate Court, however, the same was also declined by the Court below. Hence, the present appeal has been preferred against the judgments of concurrent findings and the decrees passed by the Courts below.

Arguing the case, counsel for the appellant has reiterated his pleadings in the suit. It has been submitted by the counsel for the appellant that the father of the plaintiff had no capacity/ authority to deal with the property for its disposal. The property was purchased from the funds withdrawn from the account of the plaintiff. The plaintiff was the adopted daughter of respondent No.3. Therefore, in absence of the competence of the father to sell the land, the plaintiff- appellant has got right to question

the sale deed executed by her father.

Having heard learned counsel for the appellant and perused the case file, this Court does not find any substance in the argument of the learned counsel for the appellant. Although the appellant has laid stress on the fact that she is the adopted daughter of respondent No.3 and that the suit property was purchased by her adoptive father from the funds withdrawn from her account, however, no evidence has been led to the effect that she is even the adopted daughter of respondent No.3. There is no evidence on file that the suit property was purchased by respondent No.3 from the funds drawn from account of the plaintiff. It is not even in dispute that on the date of execution of the sale deed in favour of respondents No.1 and 2 by respondent No.3, the property was owned and possessed by respondent No.3. Even the execution of the sale deed as such is not disputed. Otherwise also, the respondents have led sufficient evidence to prove the execution and validity of the sale deed in question. Hence, this Court does not find any illegality or perversity in the judgments/ decrees passed by the Court below. Besides this, no substantial question of law, as involved in the present appeal has been pointed out by counsel for the appellant.

In view of the above, finding no ground to interfere, the present appeal is dismissed.

January 10, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No