

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(118)

RSA-1227-2020 (O&M)

Date of Decision : 09.11.2020

KAKA SINGH AND ANOTHER

....Appellants

Versus

BALDEV SINGH AND OTHERS

.....Respondents

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ranjit Saini, Advocate for the appellants.

Harsimran Singh Sethi, J. (Oral)

CM-3729-C-2020

Application is allowed, as prayed for.

RSA-1227-2020

The present regular second appeal has been filed impugning the orders dated 09.10.2015 and 07.11.2015 passed by the Trial Court as well as by the lower appellate Court by which suit filed by the appellants for declaration that the plaintiffs are the owners in equal share of the land comprised in Kh/Kh. No.156/159, khasra No. 930/841 (2-6), 758/2(1-2), 766/2 (2-16), 767/2(0-2), 768/2(3-13), 931/841(1-14), 843(2-1), 867/2(0-11), 847(0-4), 848(4-0), 849(0-14), 753/1(0-2), 756/2(0-7), Kile 13, Area 23K-7M situated within the revenue limits of Badala Naya Shahar, H.B. No. 188, Tehsil Kharar, District SAS Nagar, Mohali.

Learned counsel for the appellants submits that the mutation of the land in name of Malla Singh on the basis of the gift deed by the undisputed owner of the land, namely, Ganga Ram in the year 1934, is bad as Malla Singh was not the son of said Ganga Ram and the mutation no. 359 sanctioned in favour of Malla Singh on the basis of the said gift deed, is nullity in law, will not give any benefit to Malla Singh or his successors-in-interest and also mutation no. 359, which was entered on the basis of the said gift deed.

Learned counsel for the appellants argues that the gift deed dated 15.06.1934, which was executed by Ganga Ram in favour of Malla Singh, was under undue influence and duress and, therefore, mutation no. 359 sanctioned in favour of Malla Singh on the basis of the said gift deed be treated as nullity and the petitioners be declared as owners in equal share of the land, the details of which have been detailed in the said civil suit.

I have heard learned counsel for the appellants and have gone through the record with his able assistance.

Learned counsel for the appellants while addressing the arguments conceded that Ganga Ram executed a gift deed dated 15.06.1934 in favour of Malla Singh on the basis of which the mutation no. 359 was sanctioned in favour of Malla Singh. Learned counsel for the appellants also conceded that predecessors-in-interest of the appellants, namely, Niranjana Singh, objected to the said gift deed and after considering the said objections, the mutation No. 359 was sanctioned in favour of Malla Singh, which continues to hold the field even as of now.

Once, the predecessors-in-interest of the appellants had raised the same argument, which is being addressed now before this Court with

regard to the genuineness of the gift deed and the same did not find favour with the authorities as far back as in 1934, no relief can be granted to the petitioner now as the present civil suit was filed after a period of approximately 72 years of the said gift deed. The gift deed had already attained finality and was very much in knowledge of the parties and even objected to by the predecessors-in-interest of the present appellants but without any success.

Learned counsel for the appellants has not been able to point out any illegality or perversity in the findings, which have been recorded by the trial Court or the lower appellate Court. In the absence of any perversity, in the findings recorded by the Courts below, no ground is made out to interfere with the consequent concurrent findings recorded by the Trial Court as well as the lower appellate Court vide orders dated 09.10.2015 and 07.11.2015 respectively. No question of law arises for determination before this Court in the present appeal keeping in view the argument raised by the learned counsel for the appellants and consequently the regular second appeal is dismissed.

CM-3730-C-2020

As the main RSA No. 1227 of 2020 has been dismissed, this application also stands dismissed.

November 09, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No