

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

RSA No. 2365 of 2012(O&M)

Date of decision: 26.2.2020

Vijay Pal and anotherAppellants

VERSUS

Shanti and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Jai Bhagwan Sharma, Advocate for the appellants.

Mr. Parmod Parmar, Advocate for respondents No.1, 3 and 4.

REKHA MITTAL, J.(Oral)

The present appeal directs challenge against judgments and decrees passed by the Courts whereby suit for declaration and permanent injunction in respect of land, detailed in headnote of the plaint situated in village Girawar, Tehsil and District Jhajjar was dismissed by the trial Court and decree passed by the trial Court was affirmed by the District Judge, Jhajjar.

Indisputably, the suit land was previously owned by Ms. Gian Devi daughter of Nanha @ Nanhata, who is sister of grandfather of the appellants/plaintiffs. The appellants claimed their ownership of the suit land on the basis of judgment and decree dated 30.08.1997 passed in civil suit No.327 of 1997 wherein the parties settled the dispute vide written compromise marked as Ex.C-1 therein. The appellants assailed relinquishment deed No.2336 dated 03.04.2001 executed by Smt. Gian Devi in favour of respondent No.1 on the premise that as appellants became owner of the suit land on the basis of decree dated 30.08.997, Gian

Devi was left with no right to execute the aforesaid relinquishment deed in favour of respondent No.1.

The Courts have consistently held that as decree dated 30.08.1997 does not confer any right, title or interest in favour of the appellants/plaintiffs, defendant No.2 (Ms. Gian Devi) was competent to alienate her land according to her wishes and as such the relinquishment deed or mutation sanctioned on its basis cannot be assailed at the behest of appellants/plaintiffs.

Counsel for the appellants would argue that as the appellants had a pre-existing right in the suit property owned by Ms. Gian Devi, there was no requirement in law for getting the decree dated 30.08.1997 registered and as such the appellants became absolute owner of the suit land on the basis of compromise Ex.C-1 and decree dated 30.08.1997. It is further argued that as Gian Devi ceased to be owner of the suit land after decree dated 30.08.1997 was passed against her, she had no right to execute the aforesaid relinquishment deed in favour of respondent/defendant No.1.

Counsel representing the respondents, on the contrary, has supported judgments passed by the Courts with the submission that since the decree dated 30.08.1997 was not got registered, the same cannot operate to confer any right of ownership in favour of the appellants/plaintiffs and the Courts have rightly rejected claim of the appellants qua challenge to relinquishment deed executed by its true owner.

I have heard counsel for the parties, perused the paper-book particularly the judgment and decree dated 30.08.1997 titled Vijay Pal and another Vs. Smt. Gian Devi.

A relevant extract from the judgment, reads as follows:-

“Case was fixed for plaintiffs’ evidence but no evidence led by plaintiff and it is stated by parties that they have arrived at a compromise. Compromise Ex.C1 filed. Statements of the parties have been recorded. Today, file has been put up before Lok-Adalat in presence of parties. By way of the compromise, Ex-C1, the defendants have created right for the first time in favour of the plaintiff in respect of the suit property. It is settled law that a compromise decree or order of the court creating for the first time right, title or interest in the immovable property of the value of Rs.100/- or more in respect of any property requires registration as held in authorities titled as Bhup Singh Vs. Ram Singh 1995(2) LJR (Supreme Court), 714 and Chand Kaur Vs. Raj Kaur 1996(2) Civil Court Case 564. Admittedly the suit property is of value of more than Rs.100/-. In the absence of registration, the compromise decree does not vest any rights in the parties in whose favour it is passed. Therefore, in view of compromise Ex.C1 the suit of the plaintiff is decreed as prayed for, subject to registration of decree. Compromise Ex.C1 shall form part of decree-sheet. The parties are left to bear their own costs.”

The appellants, admittedly, did not challenge decree dated 30.08.1997, thus, the same has attained finality. Even if an erroneous finding has been recorded by the Court, the same would be equally binding upon the parties as is the right one. Since the appellants never challenged decree dated 30.08.1997 rather pressed that decree into service for

claiming title and extinguishment of title of Ms. Gian Devi, they cannot escape or wriggle out of the terms and conditions of decree dated 30.08.1997. As decree dated 30.08.1997 was not got registered, it would be of no consequence for the appellants to claim ownership of suit land on the basis of decree or challenge competency of Gian Devi to deal with the land in question. In this view of the matter, I do not find an error much less perversity, in consistent findings recorded by the Courts.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

FEBRUARY 26, 2020

‘D. Gulati’

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no