

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

RSA No. 2046 of 2018(O&M)

Date of decision: 14.1.2020

Smt. Santosh

.....Appellant

VERSUS

Sumitra and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rajender Singh Malik, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration to the effect that sale deed No.7514 dated 01.12.2008 and mutation No.9454 dated 20.12.2008 and 8484 dated 06.04.2007 being illegal, null and void and liable to be set aside and appellant being entitle to be declared as owner in possession of suit land on the basis of Will dated 21.06.1997 and consequential relief of permanent injunction restraining defendants from alienating the suit land was dismissed by the trial Court vide judgment and decree dated 25.07.2014 that came to be affirmed in appeal by the Additional District Judge, Sonapat.

Peursal of impugned judgments would reveal that plaintiff and defendant No.1 are real sisters and daughters of Inderawati, erstwhile owner of the land in question. On death of Inderawati, mutation in respect

of land situated in village Jatwara, Tehsil and District Sonapat was entered and sanctioned in favour of the appellant and respondent No.1 to the extent of half share on the basis of natural succession. Subsequent thereto, respondent No.1 sold her share i.e. 3 bigha to respondent No.2 vide sale deed dated 01.12.2008, sought to be set aside. Respondent No.2 raised the plea that he is a bona fide purchaser without notice and for valuable consideration.

The Courts have held that mutation with regard to inheritance to Smt. Inderawati in favour of the appellant and respondent No.1 was sanctioned in presence of appellant and on the basis of an application filed by her husband Chand Ram.

The sole submission made by counsel is that respondent/defendant No.1 has admitted Will dated 21.06.1997 executed by Smt. Inderawati (since deceased) on the basis whereof the appellant had become owner of entire land situated in village Jatwara whereas respondent No.1 got the property situated in village Karim Nagar (U.P.). It is argued with vehemence that since the appellant became owner of the entire land situated in village Jatwara, earlier owned by Inderawati, respondent No.1 was not competent to alienate the suit land in favour of respondent No.2, therefore, the Courts have grossly erred by rejecting plea of the appellant.

I have heard counsel for the appellant, perused the paper-book particularly the judgments impugned.

It is pertinent to mention at the outset that the present litigation is the result of connivance/collusion between the appellant and

her sister Smt. Sumitra arrayed as respondent No.1 in order to cause loss to respondent No.2, purchaser of suit land from Smt. Sumitra vide sale deed dated 01.12.2008 on the basis whereof mutation No.9454 dated 20.12.2008 was sanctioned. Respondent No.2 has successfully established his plea of bona fide purchaser for valuable consideration without knowledge of Will dated 21.06.1997 propounded in the present proceedings when earlier she never set up any such Will while mutation in respect of inheritance to Smt. Inderawati qua land situated in village Jatwara was sanctioned. In this view of the matter, I do not find an error much less illegality in the impugned judgments, warranting intervention.

For the foregoing reasons, 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 is of academic relevance only.

JANUARY 14, 2020
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no