

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

**RSA No.4654 of 2018 (O&M)**  
Date of decision: 26<sup>th</sup> February, 2020

Sarmukh Singh

... Appellant

Versus

Baldev Singh & others

... Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. Atul Gaur, Advocate for  
Mr. Sumeet Goel, Advocate for the appellant.

**FATEH DEEP SINGH, J.**

This is a regular second appeal by unsuccessful plaintiff (now appellant) Sarmukh Singh whereby he has challenged the judgment and decree dated 16.03.2018 whereby the Court of learned Additional District Judge, Rupnagar has dismissed his appeal affirming the orders of learned Addl. Civil Judge (Senior Division), Ropar dated 26.02.2013 dismissing with cost the suit of the plaintiff appellant Sarmukh Singh.

Heard Mr. Atul Gaur, Advocate appearing on behalf of Mr. Sumeet Goel, Advocate for the appellant and perused the records of the case.

The plaintiff has retired as Excise and Taxation Officer and has filed the suit for mandatory injunction alleging that proforma defendants No.3 and 4 are his real brother and sister. Defendant No.3

Gurmej Singh is residing at their native village Kheri Salabat Pur and has colluded with mother of the plaintiff and defendant No.1 and had purchased one house and Taur from Har Kaur wife of Tara Singh through registered sale deed dated 07.01.1976 for a sum of ₹ 1,500/-. Contending that upon death of mother of the plaintiff in the year 1993 and when father of the plaintiff had pre-deceased his mother in June 1993, the property of the parents ought to have devolved upon the plaintiff and his siblings and rather defendant No.1 had raised construction over the said property casting a cloud of doubt on the rights of the plaintiff. Defendant No.1 has claimed that it was a collusive suit of the plaintiff and defendants No.2 and 3 and the property in question was owned and possessed by him. Contending that the original owner of the property was Gurdial Singh and Har Kaur was his only descendant whose share is 1/9 of the total plot i.e. 995 square feet and instead the plaintiff and his siblings had occupied more than 1176 square feet area and have rather encroached upon their land.

The plaintiff as has been held in the consecutive findings of the two Courts below, instead of challenging the registered sale deeds dated 09.05.1963 Ex.DB and Ex.DD, had filed a suit for mandatory injunction which was not sustainable as these sale deeds being more than 30 years old carry natural presumption under S. 90 Evidence Act. In spite

of subsequent remand with framing of additional issues as issue No.6A and 6B over these sale deeds, onus having been placed on the plaintiff, was much short of expectations of evidence to thwart the sale deeds and therefore findings by the two courts below are well factually and legally entrenched. There being no merit, the instant appeal stands dismissed in limine.

(FATEH DEEP SINGH)  
JUDGE

February 26, 2020  
*rps*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |