

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

RSA No. 9712 of 2018 (O&M)

Date of decision: 28.01.2020.

Krishan

..... Appellant.

Versus

Smt. Sushila and others

..... Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Varun Gupta, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

The appellant/plaintiff has challenged the judgment and decree of the Courts below whereby his suit for declaration and injunction has been dismissed.

Learned counsel for the appellant/plaintiff contends that the suit land was coparcenary and, therefore, the sale deed, which had been executed by respondent/defendant No.15, was null and void.

Heard.

The appellant/plaintiff filed a suit against the respondents/defendants for declaration and injunction stating therein that he is owner in possession of coparcenary property in Khewat No. 21, Khatoni No. 22 and Khewat No. 23, Khatoni No. 24, as per jamabandi for the year 2003-04 and the sale deed vasika No. 2714 dated 16.12.2005 as well as mutation No. 1838 dated 02.08.2006 entered and sanctioned on the basis thereof are illegal, null and void.

The father of the plaintiff/appellant, namely, Hari Kishan is stated to have entered into an agreement to sell the suit property with the husband of respondent/defendant No.1, namely, Kanwar Singh on

10.04.1992. The civil suit preferred by Kanwar Singh and another against Hari Kishan was decreed on 06.08.1999. Hari Kishan, who is the father of the appellant/plaintiff, had preferred an appeal against the said judgment and decree and two additional issues, i.e. 4A and 4B, were framed, as to whether the suit property was ancestral in the hands of Hari Kishan and whether Hari Kishan could sell the same out of legal necessity. Both these issues were decided in the negative and it was held that the suit property was not ancestral and, therefore, Hari Kishan could sell the suit property to anybody as per his wishes. The judgment and decree dated 28.01.2003 passed by the Lower Appellate Court was not challenged and, thus, had attained finality.

It is also borne out from the material on record that no documentary evidence had been placed on record as to whether the suit property was coparcenary. It was also contended by the appellant/plaintiff that respondent/defendant No.15, who had executed the sale deed, was a person of bad vices, but no evidence has been brought on record with regard thereto. The appellant/plaintiff through the instant suit had challenged the sale deed on the ground that it was a coparcenary property. The issue with regard to the property being coparcenary has already been settled by the judgment and decree dated 28.01.2003 passed by the Lower Appellate Court which had attained finality.

Consequently, I do not find any merit in this appeal which stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

28.01.2020
Ramesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No