

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 106

Regular Second Appeal No.1139 of 2020 (O & M)
Date of Decision: *September 22, 2022*

Sunil Kumar Vohra

..... APPELLANT(S)

VERSUS

Naresh Chander & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Sudhanshu Sharma, Advocate, for the appellant.

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Tribhuvan Dahiya, J (Oral)

This regular second appeal has been filed in a suit for declaration filed by the respondents – plaintiffs claiming ownership and possession in equal shares of the property bearing house tax No.94, Manauli House, Ambala City. An injunction directing the appellant – defendant to execute a sale deed in favour of the respondents – plaintiffs regarding his share in the said property was also sought. The share was claimed on the basis of an oral family settlement. The suit was decreed by the trial court, vide judgment dated 20.07.2016, and appeal against the said order was dismissed by the lower appellate court, vide judgment dated 01.11.2019.

A perusal of the record shows that the appellant – defendant appearing as DW-3 admitted in his cross examination that he had received Rs.1.5 lac and so did his sisters. The said amount was received by him as

settlement of his share in the oral family settlement. The findings recorded by the lower appellate court in Para 15 of the judgment are as follows:

15. I do not see any merit in the contention that the parties had not entered into any family settlement. Since, **the Appellant appearing as DW 3, has admitted** in his cross examination that he had received 1.5 lacs and **so did his sisters**. Though, he has denied that the said amount had been received by him as settlement of his share. He admitted he could not prove any document to show that he had received the said amount as loan, nor had he repaid the said loan. Though, he went on to admit that he had executed an affidavit (**Exb. P1**) in Dera Bassi and handed it over to his sister authorizing her to receive his share from the suit property, situated at House no. 94 Manauli House. Thus, the existence of oral family settlement has been admitted, not only by the Appellant, but also by his sister **Anju Vasan, who has been examined as DW 4**. She has categorically stated that all the heirs had taken 1.5 lacs as settlement of their share in the suit property from Naresh in the family – **settlement which was ORAL and not reduced to writing.**

Learned counsel for the appellant – defendant has argued that the amount received by the defendant was not in relation to the family settlement but was received on account of financial help.

This is not the pleaded case of the appellant – defendant, nor any evidence to that effect has been led before the courts below. In this

situation, the argument deserves to be rejected. No other argument has been raised.

No substantial question of law arises for consideration.

Dismissed.

(Tribhuvan Dahiya)
Judge

September 22, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No