

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 948 of 2013 (O&M)

Date of Decision: 07.07.2022

Harbans Kaur and Others

... Appellant(s)

Versus

Sant Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mohit Jaggi, Advocate
for the appellant(s).

Mr. Gulzar Mohammad, Advocate
for the respondent No.1.

Anil Kshetarpal, J.

1. While assailing the concurrent findings of facts, arrived at by both the Courts below, the defendants have come up in appeal.

2. Some facts are required to be noticed. Late Sh.Bachan Singh was the owner of the property. He died on 02.12.1960 while leaving behind his Class-I heirs. All the legal heirs held the property as tenants-in-common. His two sons, namely Sh.Jeet Singh and Sh.Niranjan Singh have sold the land measuring 8 kanals to the plaintiff vide sale deed dated 23.01.1963. The plaintiff was put in possession of the land comprised in specific khasra number. However, by that time, mutation of inheritance of Sh.Bachan Singh was not sanctioned. Subsequently, when the mutation was sanctioned there was an error. The effect of the sale deed dated 23.01.1963 was not properly incorporated in the revenue record which resulted in an error in the records.

Thereafter, another sale deed dated 28.01.1970 was executed in favour of the

defendant No.1 and 2 with respect to the concerned khasra number, which was, subsequently, sold to the plaintiff. The plaintiff's suit for grant of decree of declaration with consequential relief of permanent injunction has been partly decreed while observing that the plaintiff is owner to the extent of the land which he had purchased vide sale deed dated 23.01.1963.

3. Heard the learned counsel representing the parties and with their able assistance, perused the paper-book.

4. The learned counsel for the appellants contends that the sale deed, executed in favour of the appellants on 28.01.1970, could not be declared void. He submits that the defendants became owners of the property on the execution of the sale deed dated 28.01.1970, therefore, the suit filed by the plaintiff has, wrongly, been decreed.

5. On a careful reading of the concluding part of the judgment passed by the trial Court, it is evident that the sale deed dated 28.01.1970 has been declared void qua the rights of the plaintiff. In other words, the rights of the appellants (the defendants in the suit) are subservient to the rights of the plaintiff. The plaintiff, admittedly, is a purchaser of a share in the joint khata/khewat. The concept of ownership is with reference to a khata/khewat and not with respect to the land comprised in each khasra or rectangle number. Reliance in this regard can be placed on a five Judge Bench judgment in ***Ram Chander v. Bhim Singh and Others 2008 (3) PLR 747.***

6. There is no dispute that Sh.Jeet Singh and Sh.Niranjan Singh sold the property to the plaintiff in accordance with their share as on 23.01.1963. The plaintiff became the owner to that extent in an unpartitioned

only.

7. In view thereof , no ground is made out to interfere. Hence, the present appeal is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

July 07, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No