

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

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**RSA-4561 of 2015(O&M)
Date of decision: 24.08.2022**

Rattan Lal and another

..Appellants

Versus

Ishwar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vikrant Rana, Advocate
for the appellants.

Mr. Ashish Gupta, Advocate
for respondent no.1.

Mr. Harsh Vardhan, AAG, Haryana and
Mr. Jaspal Singh Pannu, AAG, Haryana
for respondent no.6 to 8.

ANIL KSHETARPAL, J(Oral)

Defendant no.2 and 3 assail the correctness of the judgment and decree passed by the First Appellate Court while decreeing the suit filed by the plaintiff.

A suit for grant of decree of declaration that the entry in the column of cultivation in favour of defendant no.1, 2, 3's father, and Sh. Om Parkash as Dholdars is incorrect and the revenue authorities should be directed to make an entry of khud kast (self cultivation) in its place. It has come in evidence that defendant no.7 to 9 were the owners of the property, whereas defendant no.1, 2, 3's father and Sh. Om Parkash were in cultivating possession being Dholdars. The owners as well as Dholdars jointly sold their entire rights including Dholdari rights (possessory rights) in favour of the plaintiff vide sale deeds no.11135 (04.10.1995) and 11484 (10.10.1995).

The revenue authorities entered and sanctioned the mutation but changed

the ownership column, though as per the sale deeds possession was also delivered. Defendant no.1 and 2 while contesting the suit claimed that they are in the physical possession of the property being Dholidars.

The trial court dismissed the suit on the ground that Dholidar rights cannot be alienated. However, the First Appellate Court after re-appreciating the evidence has recorded a finding of fact that the Dholidars have also sold their rights by the two registered sale deeds while delivering the possession to the plaintiff.

The State of Haryana has enacted the Haryana Dholidar, Butimar, Bhondedar and Muqararidar (Vesting of Proprietary Rights) Act, 2010 (hereinafter referred to as 'the 2010 Act'), conferring absolute ownership on the aforesaid category of persons. Even if the sale of Dholidar rights by the appellants suffered from error on account of the imperfect title, with the enactment of 2010 Act, the sale shall stand regularised in terms of the principles laid down in Section 43 of the Transfer of Property Act, 1882. This question has been examined in detail in **Rajwati and another vs. Sukhi and others, 2018(3) PLR, 137.**

For the reasons recorded in the aforesaid judgment, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

August 24, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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