

In the High Court of Punjab and Haryana, at Chandigarh

Regular Second Appeal No. 4934 of 2017 (O&M)

Date of Decision: 08.08.2022

Shakuntla Devi

... Appellant(s)

Versus

Man Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. D.R.Bansal, Advocate
for the appellant(s).

Mr. Sanjiv Kumar Aggarwal and Mr. Ojas Bansal, Advocates
for the respondents.

Anil Kshetarpal, J.

1. Two brothers, namely Sh. Baisakhi Ram and late Sh. Des Raj were owners of the suit property to an equal extent. Sh. Baisakhi Ram sold his share to the plaintiff vide sale deed dated 26.04.2001, whereas he entered into an agreement to sell with regard to the remaining half share with the plaintiff while representing that his deceased brother Sh.Des Raj has acknowledged him to be the owner. The plaintiff, on the basis of the aforesaid agreement to sell executed by Sh.Baisakhi Ram, filed a suit for specific performance of the agreement to sell. Sh.Baisakhi Ram denied the execution of the agreement to sell or any family settlement and further contested the suit claiming that the legal heirs of late Sh. Des Raj have not been made a party to the suit. The suit for specific performance was decreed against Sh.Baisakhi Ram. Even the first appeal was also dismissed.

The plaintiff's suit for grant of decree of injunction from

interfering in her possession has been dismissed by both the Courts below on the ground that the decree of specific performance of the agreement to sell, in the absence of the owners, namely the heirs of late Sh. Des Raj, is not binding upon them. It is well settled that a decree for specific performance of the agreement to sell grants a relief *inter se* between the parties. While deciding such suit, the Court does not grant any other declaration. The plaintiff ought to have impleaded the legal heirs of late Sh. Des Raj as party defendants in the suit for specific performance of the agreement to sell. In the absence thereof, she gets no right in the property. Hence, both the Courts below have correctly dismissed the suit.

3. Keeping in view the aforesaid facts, no ground is made out to interfere. Hence, the present appeal is dismissed. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

August 08, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No