

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

RSA No. 294 of 2023 (O&M)
Date of Decision : 15.05.2023

Jai Narain (now deceased) through his L.Rs.

...Appellants

Versus

Ravi Dutt and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mohammad Arshad, Advocate for the appellants.

Harsimran Singh Sethi J. (Oral)

CM-1106-C-2023

Present application has been filed for bringing on record legal representatives of appellant-Jai Narain, who unfortunately died on 07.06.2018.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Legal heirs of appellant-Jai Narain, the details of whom are given in para 2 of the application, are brought on record with all just exceptions and the amended memo of parties attached with the present application is taken on record.

CM stands allowed.

RSA No. 294 of 2023

1. The present regular second appeal has been filed challenging the judgments and decrees of the courts below by which, the claim of the

appellant-plaintiff for setting-aside the gift deed No. 972 dated 18.08.1986 has been dismissed.

2. Learned counsel for the appellants-plaintiffs submits that the said gift deed was subscribed by Suraj Bhan, who was deaf and dumb and was of unsound mind, therefore, any gift deed by such a person, is not a valid deed and rather, the said gift deed was a result of forgery and the courts below have failed to appreciate the facts and evidence on record.

3. On being asked to substantiate the said argument on the basis of facts and evidence which has come on record as both the courts below have recorded a finding that though, Suraj Bhan was deaf and dumb but nothing has come on record that he was of unsound mind and was not capable of understanding or performing his duties, especially when the said gift deed has been proved by the subscribers of the said gift deed including the deed writer and is also a registered gift deed.

4. Learned counsel has only been able to contend that PW2-Rati Pal has mentioned that Suraj Bhan was deaf and dumb, hence, it has to be assumed that he was also of unsound mind, incapable of deciding his own fate. The said argument cannot be accepted. Merely a person, who is deaf and dumb cannot be said that he is of unsound mind or is not capable of deciding his fate. The deaf and dumb persons are capable of living a normal life as they have capability to understand everything. Unless and until it is proved on record that along with the hearing and speaking disability, the person concerned i.e. Suraj Bhan was not in a position to decide about his fate keeping in view various ailments suffered, there is no need to appoint a guardian.

5. In the present case, learned counsel has not been able to point

out any evidence or fact on record to show that Suraj Bhan was of an unsound mind, hence, the assertion that merely Suraj Bhan was not able to speak or hear, he is also to be treated of unsound mind, has rightly been not accepted by the courts below, which finding needs no interference by this Court.

6. Further, it has already come on record before the courts below that the gift deed was a registered gift deed and has been subscribed by Suraj Bhan. The deed writer and witness to the gift deed proved the same by giving due support to the said gift deed, which evidence was not rebutted by learned counsel for the appellants.

7. Keeping in view the above, as no perversity in the findings of the court below could be pointed out, no interference is called for by this Court in the facts and circumstances of the present case.

8. No other argument was raised.

9. Keeping in view the above, the present regular second appeal is dismissed.

CM-1107-C-2023

As the main appeal is dismissed, the present application also stands dismissed.

May 15, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No