

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.1295 of 2023 (O&M)

Date of Order:28.11.2023

Charan Kaur (deceased) through LRs and another

.Appellants

Versus

Gurdev Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arvind Mittal, Advocate
for the appellants.

Mr. Vijay Sharma, Advocate
for respondent no.3.

ANIL KSHETARPAL, J

C.M.No.4844-C-2023

1. Allowed as prayed for.

C.M.No.4845-C-2023

2. For the reasons stated in the application which is supported by an affidavit, the application for bringing on record the legal representatives of deceased late Smt. Charan Kaur [appellant no.1] mentioned in the paragraph 3 of the application, is allowed, subject to all the just exceptions.

3. The office is directed to carry out the necessary correction in the memorandum of parties.

MAIN

4. In this regular second appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiffs. Their suit for grant of decree of declaration that the plaintiffs along with Sh. Kulwinder Singh and Sh. Gurdev Singh are entitled to the equal share to the

extent of 1/4th share each, in the property has been dismissed by both the courts below.

5. The plaintiffs are two daughters of Sh. Gurdev Singh. They claim that the property is a Joint Hindu Family property and the sale deed executed by their father Sh. Gurdev Singh in favour of Sh. Labh Singh, Defendant no.2 is illegal, null and void. When the plaintiffs Smt. Charan Kaur appeared in evidence, she admitted that her father had also sold 8 bighas and 3 biswas of land to Sh. Prem Singh, Sh. Amarjit Singh and Sh. Dharam Singh and she never challenged the aforesaid sale deed. She also admitted that her father had sold some land to Sh. Labh Singh for consideration of Rs.18,75,000/-, and the said land has been sold for fulfilling the legal obligations.

6. The learned counsel representing the appellants contends that it is proved on the file that Sh. Man Singh, father of Sh. Gurdev Singh had purchased the property and therefore, the property in the hands of Sh. Gurdev Singh was ancestral. He submits that qua the rights of the plaintiffs Sh. Gurdev Singh had no right to sell the property.

7. This court has considered the submissions of the learned counsel representing the parties.

8. At the most, it is the case of the plaintiffs that the property is a Joint Hindu family property. The karta in a Joint Hindu Family is entitled to sell the property for fulfilling the legal necessity of the family. It has come on record that Sh. Gurdev Singh was having two wives, namely, Smt. Tej Kaur and Smt. Jagir Kaur. Smt. Tej Kaur filed a suit for grant of maintenance. It has also come on record that Sh. Gurdev Singh had to repay the loan amount as well as the expenses for the litigation. Once the plaintiff

while appearing as PW3 has admitted that the sale was on account of the legal necessity, both the courts have correctly dismissed the suit particularly when the plaintiff never challenged the sale deed executed in favour of Sh. Prem Singh, Sh. Amarjit Singh and Sh. Dharam Singh.

9. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.
10. Dismissed.
11. All the pending miscellaneous applications, if any, are also disposed of.

November 28, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned

Whether reportable

:YES/NO

:YES/NO