

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

RSA-1184-2021(O&M)

Date of Decision: 21.02.2024

PUNJAB SINGH AND OTHERS

..... APPELLANTS

VS

JAGDEEP SINGH AND ANOTHER

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Sonia G. Singh Samber, Advocate for the appellants.

GURBIR SINGH, J. (ORAL)

* * * *

CM-5053-C-2020

This application is filed under Section 151 CPC read for condonation of delay of 15 days in re-filing the appeal.

In view of the grounds taken in the application, delay of 15 days in refiling the appeal is condoned.

Civil Miscellaneous Application is allowed.

Main case:

1. This regular second appeal is filed by plaintiffs/appellants against the concurrent findings of Courts below.
2. The parties are being addressed as per the original plaint.
3. Brief facts as necessary for disposal of this appeal are that Puran Singh was the co-sharer in the suit property and plaintiffs are the only legal heirs of Puran Singh. Puran Singh had inherited the suit property being member of Hindu Joint Family. The plaintiffs are in actual, physical and

peaceful possession of the suit property. The father of the defendants was having business dealings with Puran Singh. The father of defendant No.1 got executed a forged and fabricated sale deed dated 07.06.2000 in his favour from Puran Singh without any consideration. Possession was not delivered with the sale deed. The said sale deed is illegal, null and void. Defendant No.1 further executed the sale deed dated 16.06.2011 of the land measuring 70 kanals 16 marlas in favour of defendant No.2 which is illegal, null and void.

4. Learned counsel for the appellants has argued that suit property is the joint Hindu family ancestral and co-parcenary property as the land was allotted to Puran Singh son of Amar Singh in village Kammomajra, District Sangrur and by way of sale of that land, the suit land was purchased by the father of Puran Singh and Puran Singh inherited the suit property being member of joint Hindu family. Puran Singh by selling his agriculture produce with the father of defendant remained in continuous dealing with the father of the defendant for 30 years. The father of the defendant No.1 by taking undue advantage of the illiteracy of Puran Singh by playing fraud, got the sale deed dated 07.06.2000 executed from Puran Singh. There was no legal necessity of Puran Singh to sell the suit property.

5. It is argued that in pursuance of notice, knowing fully well about the pendency of the suit, defendant No.1 appeared through counsel. He sold the property to defendant No.2 during pendency of case. Since there was no issue regarding ancestral nature of property so proper evidence could not be produced and an application under Order 41 Rule 25 CPC was moved before the learned Appellate Court, but the same was wrongly dismissed. The possession of the property was not delivered to the defendants

and mere entry of the joint possession on the basis of wrong mutation in the revenue record cannot be taken as possession of the defendants.

6. Heard.

7. The case of the plaintiffs is that the suit property is the joint Hindu family ancestral coparcenary property in the hands of Puran Singh but plaintiffs miserably failed to prove the same. The Courts below have held that the property was allotted to Puran Singh in Kammomajra and he sold the same. Thereafter the instant property was purchased. The suit property is the self-acquired property of Puran Singh and is not the ancestral property in his hands. The parties have led evidence keeping in view their pleadings, the plaintiffs were required to prove that sale deed dated 07.06.2000 in favour of defendant No.1 is the result of fraud but no evidence is brought on record to prove the fraud.

8. The Courts below have recorded concurrent findings of facts. There is neither any misappreciation or misreading of evidence nor any substantial question of law is involved in the present appeal. The appeal is without any merit and is dismissed accordingly.

9. Pending application, if any, shall also stand disposed of.

21.02.2024
renu

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No