

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. RSA-2368-1990 (O&M)
2024:PHHC: 061352

RATTAN KAUR @ PARAMJIT KAUR
..... APPELLANT

Vs.

BALWANT SINGH (SINCE DECEASED) AND OTHERS
..... RESPONDENTS

2. RSA-2369-1990 (O&M)
2024:PHHC: 061354

RATTAN KAUR @ PARAMJIT KAUR
..... APPELLANT

Vs.

BALWANT SINGH (SINCE DECEASED) THROUGH HIS LRS.

..... RESPONDENT

Reserved on :19.04.2024
Pronounced on: 03.05.2024

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued By:- Mr. Onkar Singh Batalvi, Advocate, for the appellant.

Mr. Amit Jain, Sr. Advocate, with
Mr. Anupam Mathur, Advocate, for respondents No.1 & 2.

DEEPAK GUPTA, J.

In both the above tiled Regular Second Appeals, identical issue involved, is regarding the fact as to whether plaintiff/appellant was minor at the time of execution of the impugned sale deeds in favour of defendants/respondents or not.

2. In both the appeals, though the suits were initially decreed by the trial Court concerned, but the appeals of the defendants were allowed by the First Appellate Court, dismissing the suits.

3. In order to avoid confusion, parties shall be referred to as per their status before the Id. lower Court. Trial Court Records have been perused.

4. What emerges, on perusal of record, is that plaintiff executed a sale deed dated 30.12.1983 (Ex.P1) in favour of Balwant Singh and Smt. Surjit Kaur in respect of 26 kanal 6 marla of land situated in village Wadala, District Pathankot, in which she had 19/20 share. Along with the plaintiff, her mother Smt. Veero (defendant No.3) sold her 1/20 share.

5.1 Plaintiff challenged the sale deed by filing Civil Suit No.330 of 1985 by claiming that she is known by the name of Rattan Kaur @ Paramjit Kaur and that at the time of execution of sale deed, she was minor, her date of birth being 15.09.1968 and so, sale deed executed by her is not binding on her rights.

5.2 In Civil Suit No.331 of 1985, plaintiff challenged the sale deed dated 03.02.1984, executed in favour of defendant-Balwant Singh in respect of 16 kanal 14 marla of land situated in Village Wadala, District Pathankot, on the same ground that at the time of execution of sale deed, she was minor.

6. The vendee-defendants contested the claim of plaintiff.

7. In both the cases, the trial Court held the plaintiff to be minor and so, set aside the impugned sale deeds. The judgment dated 22.12.1987 passed in Civil Suit No.330 of 1985 led to the filing of the Civil Appeal No.13 of 1988 by the defendant-vendee; whereas the judgment dated 22.12.1987 of the trial Court in Civil Suit No.331 of 1985 led to filing of the Civil Appeal No.12 of 1988 by the defendant-vendee.

8. The First Appellate Court upheld the stand taken by the defendants to the effect that plaintiff had failed to prove that she was known by the name of Rattan Kaur and that she had further failed to prove that she was minor at the time of execution of the impugned sale deeds. Thus, the First

Appellate Court allowed the appeals on 11.10.1990 and dismissed both the suits.

9. Thus, the only issue involved in these Regular Second Appeals is as to whether the plaintiff was known as Rattan Kaur @ Paramjit Kaur, as has been claimed by her and further, as to whether she was minor at the time of execution of the sale deeds?

10. It has been found by the First Appellate Court that birth certificate (Ex.P1/A), on which the plaintiff placed reliance, pertains to Rattan Kaur, in which the date of birth of said Rattan Kaur is shown to be 15.09.1968. However, it was admitted during evidence that plaintiff studied upto 5th standard in village Wadala, District Pathankot and that in the school record, her name is mentioned as Paramjit Kaur. Not only this, in the Jamabandi/revenue record, the name of the plaintiff is clearly mentioned as Paramjit Kaur daughter of Kartar. In both the sale deeds, as assailed by the plaintiff of these two suits, her name is mentioned as Paramjit Kaur and she claimed herself to be major. Plaintiff failed to produce any document whatsoever, in order to reveal that apart from Paramjit Kaur, she was ever known by the name of Rattan Kaur.

11. The findings recorded by the First Appellate Court are based on proper appreciation of the evidence. It has been rightly noticed that though the mother of plaintiff, namely, Smt. Veero, was alive at the relevant time, but she was not examined so as to prove the claim of the plaintiff to the effect that she was minor at the time of sale deed or that she was also known by the name of Rattan Kaur apart from Paramjit Kaur or not. The plaintiff had two brothers namely, Karnail and Jarnail, but none of them had been examined to prove her

stand. There is oral evidence only of the plaintiff and that of her sister Rachna, through whom suits were filed by the plaintiff. Statements made by these two witnesses were found to be unreliable as both of them are interested witnesses.

12. After going through the judgment passed by the First Appellate Court, recording the finding of facts, based on proper appreciation of evidence, this Court does not find any illegality so as to interfere in the same. Before this Court also, ld. counsel for the plaintiff/appellant could not refer to any evidence apart from the oral statement of the plaintiff and her sister that plaintiff was ever known as Rattan Kaur apart from Paramjit Kaur. Therefore, it cannot be stated that birth certificate (Ex.P1/A) of Rattan Kaur pertains to the plaintiff.

13. As such, finding no merit in any of these appeals, both of them are hereby dismissed.

Pending application(s), if any, stand disposed of.

A photocopy of this order be placed on the file of connected case.

03.05.2024

Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?

Yes

Whether reportable?

No