

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(101-1)

1. RSA-1714-1992 (O&M)

PAWAN KUMAR

... Appellant

Versus

RAM PHAL

... Respondent(s)

2. RSA-1015-1992 (O&M)

(101-2)

PAWAN KUMAR AND ORS

... Appellants

Versus

SHER SINGH AND ORS

... Respondent(s)

Date of Decision:-09.12.2024

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CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present:- Mr. J.P.Sharma, Advocate
for the appellants.

ALOK JAIN, J. (Oral)

1. These two appeals are inter-connected. Both arise out of the suit for declaration filed by the present appellants challenging the sale deed executed by defendant No.3-Rattan Kumar (father) in favour of defendant No.1-Ram Pal son of Hathi Ram and defendant No.2-Ishawar son of Sohan Singh.

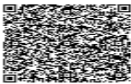


2. Vide order dated 17.07.2024, the proposed legal representative of deceased/respondents/defendants No.1 and 2; Ram Pal & Ishwar Singh, respectively, were impleaded as party and notices were issued, but as per office report LR's of respondents/defendants No.1 and 2 have been duly served, but none has put in appearance on their behalf.

3. The contention raised by the appellants-plaintiffs are that the suit property was ancestral and coparcenary property and therefore, defendant No.3-Rattan Kumar could not alienate the suit property as there was no legal necessity at that time. However, the trial Court vide the judgment and decree dated 09.04.1991 in Civil Suit No.113 of 1986 dismissed the suit by returning the finding that defendant has established that the defendant No.3-vendor was in need of money therefore he alienated the land for valuable consideration and more so, the plaintiff could not establish that the suit land was ancestral property at the time of sale qua the plaintiffs. It was also duly proved that the defendant No.3 alienated the property for valuable consideration.

4. The appeal arises out of the abovesaid judgment and decree also came to be dismissed on 26.05.1992 and the First Appellate Court also returned a finding that the defendant No.3-Rattan Kumar was in need of money for repayment of loan to bank, for which he had made equitable mortgage. Hence the legal necessity was duly proved.

5. Learned counsel for the appellants submits that both the learned Courts fell in error in dismissing the suit of the appellants on the ground that the appellants were minor when the sale was executed and therefore, their rights were needed to be protected at that relevant point of time. He further submits that defendant No.3-Rattan Kumar was drunken man and misused



the entire sale consideration for his bad habits. He also submits that Rattan Kumar constituted a Joint Hindu Family and the property sold by him was without any legal necessity.

6. Heard learned counsel for the appellants at length and perused the record and evidence placed on record which clearly demonstrates that the sale deed dated 22.11.1985 was good in the eyes of law as the same was for repayment of loan taken by Rattan Kumar. More so, in the light of the facts that the appellants/plaintiffs failed to demonstrate that the said property was coparcenary and have not led any evidence to the said effect.

7. In the light of the above, present appeals stand dismissed.

09.12.2024
Gaurav Sorot

(ALOK JAIN)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No