

102

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-1276-1994(O&M)
Date of decision :19.04.2024

Gulzar Singh ...Appellant

Vs.

Manohar Singh ...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vipin Mahajan, Advocate
for the appellant.

Mr. R.S. Manhas, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. This is the defendant's regular second appeal against the judgment passed by the First Appellate Court, which in turn has reversed the judgment of the trial Court.
2. In order to comprehend the issue involved in the present case, relevant facts in brief are required to be noticed.
3. Sh. Mohna @ Mohan Singh was the owner of the property. On 16.02.1957, he gifted the property in favour of Sh. Vir Singh. The appellant-Gulzar Singh is biological son of Sh. Vir Singh, however, he was adopted by Sh. Mohna @ Mohan Singh. Sh. Gursharan Singh and Sh. Dhanna Singh challenged the gift deed dated 16.02.1957, executed by Sh. Mohna @ Mohan Singh in favour of Sh. Vir Singh on the ground that it does not effect revisionary rights. The aforesaid suit was decreed and held that the gift deed dated 16.02.1957, would not effect the rights of the plaintiffs in that suit.

Subsequently, Sh. Vir Singh and Sh. Mohna @ Mohan Singh jointly sold the land measuring 08 kanals vide registered sale deed dated 25.02.1965, in favour of Sh. Manohar Singh (respondent/plaintiff).

4. Sh. Manohar Singh filed a suit qua declaration that he is the owner in possession of 08 kanals land by virtue of sale deed dated 25.02.1965, against Sh. Gulzar Singh, which was dismissed by the trial Court, however, reversed by the First Appellate Court.

5. Learned counsel representing the appellant contends that Sh. Vir Singh has no right to sell the property. He submits that the gift deed dated 16.02.1957, was set aside in a Court decree dated 20.08.1960. Hence, the First Appellate Court has erred in decreeing the plaintiff's suit.

6. This Court has considered the submission.

7. The decree passed in the year 1960, did not result in setting aside the gift deed dated 16.02.1957. This decree was based on customary right. Two revisioners of Sh. Mohna @ Mohan Singh claim that such gift should not effect their rights. It was merely a declaratory decree from 1973, because of amendment in the Act, passing of such decrees has been prohibited. Such amendment has resulted into dismissal of all such suits. By virtue of decree dated 20.08.1960, at the most, there was cloud on the rights of Sh. Vir Singh. After the death of Sh. Mohna @ Mohan Singh, the property would have reverted back to heirs of Sh. Mohna @ Mohan Singh, if they filed suit for possession within the prescribed period under The Punjab Limitation (Custom) Act, 1920. Hence, there is no substance in the first argument of the learned counsel representing the appellant.

8. In any case, the sale deed has been executed jointly by Sh. Vir Singh and Sh. Mohna @ Mohan Singh. Even, if the argument of the learned counsel representing the appellant is accepted still the sale deed has been executed by Sh. Mohna @ Mohan Singh, who was the owner, is valid.
9. Hence, no ground to interfere is made out.
10. Dismissed.

19.04.2024		(ANIL KSHETARPAL)	
neeraj	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No