

2024:PHHC:034862
**155 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-2473-1991 (O&M)
Date of decision: 11.03.2024

Dharambir @ Dharam Pal and others

....Appellants

Versus

Sudh Ram and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Gaurav Aggarwal, Advocate for the appellants

Mr. Aditya Jain and

Mr. Rahul Vohra, Advocates for respondent no.1

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the plaintiffs assail the correctness of the concurrent findings of fact arrived at by the courts below while dismissing their suit for the grant of decree of possession. In substance, the plaintiffs are challenging the correctness of the sale deed executed by their father Sh.Babu Lal on 27.10.1983 in favour of defendant no.1-Sh.Sudh Ram. Both the courts below have concluded that the sale deed was executed by Sh.Babu Ram in order to pay the debt as the suit land was mortgaged with Sh.Kunj Lal for Rs.5,000/-. It has also come on record that Sh.Babu Lal was to marry off his daughter and the remaining sale amount was utilized for that purpose.

2. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook, alongwith the requisitioned lower court record.

3. Learned counsel representing the appellants submits that defendant no.1 has not asserted anywhere in the written statement that

the sale was on account of legal necessity. He submits that evidence beyond pleadings cannot be read.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. It has come on record that previously the plaintiffs filed a suit for pre-emption to pre-empt the sale deed, which was dismissed on 27.02.1986. Thereafter, the plaintiffs filed the present suit on 31.03.1986. The defendant no.2 has vehemently asserted that the sale deed was executed due to legal necessity and he was to pay the debt and marry off his daughter. The evidence to that effect was led, which has been found reliable by both the courts below. There is a finding of fact arrived at by the courts below on appreciation of evidence. Such finding is not shown to be suffering from any misreading or non-reading of material evidence. Learned counsel representing the appellants has failed to draw the attention of the Court to any perversity of the judgment passed by the courts below.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

11.03.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE