

2024:PHHC:005524
**113 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-39-2019 (O&M)
Date of decision: 15.01.2024

Pinki and another

....Appellants

Versus

Satbir Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjiv Kumar Aggarwal, Advocate for the
appellants

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the concurrent findings of fact arrived at by the courts below is assailed by defendant no.6 and 7. The plaintiffs' suit for the grant of decree of declaration that she is an owner in possession of the property with a consequential relief of permanent injunction has been decreed by both the courts below. It has come on record that Smt. Chhoto widow of Sh.Gulab Rai was owner of the property. Vide registered sale deed dated 31.03.1987, she sold 5/80th share in favour of defendant no.1, who in turn sold the property to defendant no.2, in 1993, which was subsequently transferred to defendant no.3 and 4 in 1984. Subsequently, defendant no.3 and 4 transferred the property in favour of the plaintiff on 25.05.1999. It is the case of the plaintiff that after constructing the house they are residing with their family and electric and water connection have been issued to them. The

defendants claim that Smt.Parmila Devi purchased the property vide sale deed dated 20.08.2008, and prior to Smt.Parmila Devi, defendant no.5 was owner pursuant to the sale deed dated 13.06.2002. Defendant no.1, while contesting the suit, claimed that he has never executed the sale deed dated 31.03.1987. Both the courts, on appreciation of the evidence, have found that Malkiyat Singh (defendant no.1) sold the property in favour of defendant no.2, which was subsequently sold on various stages and ultimately purchased by the plaintiff.

2. Heard the learned counsel representing the appellant at length and with their able assistance perused the paperbook.

3. Learned counsel representing the appellant submits that the sale deed has not been proved in accordance with Section 68 of the Indian Evidence Act, 1872 (hereinafter referred to as '1872 Act') and the original sale deed has not been produced. He submits that the sale deed has been produced by leading the secondary evidence.

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

5. Section 68 of the 1872 Act is not applicable to the facts of the present case because the sale deed does not require attestation by the witnesses. With reference to second argument of the learned counsel representing the appellant, it may be noted here that this argument is being taken up for the first time in this appeal. In any

case, certified copies of the registered sale deeds have been produced.

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

8. Hence, dismissed.

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

15.01.2024
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE