



215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SAO-1-2009 (O&M)

Date of decision : 06.03.2025

Karam Vir and another

...Appellants

Vs.

Gurmeet Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Goel, Advocate
for the appellants.

Mr. Jatinderpal Singh, Advocate
for respondents No. 1 and 2.

ANIL KSHETARPAL, J. (Oral)

1. The defendants no.1 and 2 assail the correctness of the First Appellate Court's order remitting the matter back to the trial Court for deciding the suit on merits.

2. In order to comprehend the issues involved in the present case, relevant facts, in brief, are required to be noticed.

3. The plaintiffs filed a suit for grant of decree of possession with a consequential relief of permanent injunction claiming that the suit property is ancestral Joint Hindu Family property and the plaintiffs alongwith their father Sh. Dila Ram (defendant No.3) are coparceners in the Joint Hindu Family property. Previously, Sh. Soran, grandfather of the plaintiff, was 'Karta' but subsequently defendant No. 3-Sh. Dila Ram became the 'Karta' of the Joint Hindu Family. Sh. Dila Ram has executed as many as six sale deeds as



attorney of his father Sh. Soran between the period 1991-92 in favour of defendants No.1 and 2.

4. The plaintiffs filed the suit on 25.09.2001. The defendants filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908, which was dismissed by the trial Court. However, in civil revision, the High Court directed the trial Court to decide the issues of requirement to pay *ad valorem* Court fee and maintainability of the suit as preliminary issues. On 11.05.2007, the trial Court, dismissed the suit. While recording finding on those two preliminary issues, the First Appellate Court has reversed the same. The First Appellate Court has found that the plaintiff is not required to pay *ad valorem* Court fee and his suit is maintainable. It is clear that as the trial Court did not record finding on other issues, hence, the First Appellate Court in terms of Order 41 Rule 23 of the Code of Civil Procedure, 1908 remitted the matter back to the trial Court.

5. Learned counsel representing the appellants submits that during the lifetime of Sh. Dila Ram, the plaintiffs cannot claim that the various sale deeds executed by their father were without legal necessity. He further submits that the suit was filed after a period of 10 years from the date the sale deeds were executed, hence, the suit is filed beyond the prescribed period of limitation. Moreover, one suit could not be filed to challenge the correctness of six sale deeds.

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

7. All these aspects are required to be examined by the trial Court

after the parties have permitted to lead evidence. Before this Court, the challenge is to the order passed by the First Appellate Court. Remaining issues are required to be considered by the trial Court at the first instance.

8. Consequently, the appeal is disposed of. However, keeping in view the fact that the suit was filed in the year 2001, hence, the trial Court is requested to expedite the disposal of the suit, preferably within the period of one year.

9. The parties through their learned counsel are directed to appear before the trial Court on 01.04.2025.

06.03.2025	(ANIL KSHETARPAL)	
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No