



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-4917 of 2016 (O&M)

Date of Order:14.01.2025

Jagtar Singh

.Appellant

Versus

Bakshish Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Ms. Sushma Pathak, Advocate, for
Mr. Kewal Singh, Advocate
for the appellant.

Mr. Ashok Bector, Advocate
for respondent no.1.

ANIL KSHETARPAL, JUDGE (Oral)

1. Defendant no.1(appellant herein) assails the correctness of concurrent findings of fact arrived at by the courts below while decreeing the plaintiff's suit for grant of decree of declaration to the effect that the plaintiff is owner in possession of the suit property to the extent of 1/12th share in an area measuring 12 marlas bearing Rect. No.35, Khasra No.26, situated in Baburpur, Tehsil Payal, District Ludhiana.

2. Admittedly, the plaintiff vide registered sale deed dated 30.06.2004 sold 4 kanals and 14 marlas land out of the land comprised in Rect. No.34, Khasra No.14/1/, 14/2, 15, 16/1, 18/2, 24, 25, 35//1/2, 10/1, 20/1, 20/3

3. As per note appended to the sale deed, the vendor (plaintiff) not only sold the agricultural land but also transferred his rights qua usage of well, water channel, and passage. Subsequently, the plaintiff claimed that



since Khasra no.26 has not been recited in the sale deed, therefore, he continues to be owner of well, water channel and passage.

4. The dispute is only with respect to 1 marla land which is an undivided share in a parcel of land which is being used for the purposes which are necessary for proper utilization of the agricultural land by all the co-sharers. The courts have erred in concluding that the undivided share in the land comprised in Khasra no.26 is not part of the sale deed.

5. Once a particular parcel of land is being sold by a registered sale deed along with the vendor's right in well, water channel and passage, the proportionate share of the vendor becomes inevitable part of the property which has been transferred to the vendee. Moreover, the plaintiff has failed to prove that there was another well, water channel and passage sold to defendant no.1 except the suit property.

6. The learned counsel representing the respondent submits that there is no reference to the land comprised in Rect. No.35, Khasra no.26 in the sale deed. Hence, the judgments passed by the courts below are correct.

7. This court has considered the submissions of the learned counsel representing the parties, however, finds no substance therein.

8. Keeping in view the aforesaid facts, the judgments passed by both the courts below are set aside thereby dismissing the plaintiff's suit

9. The appeal stands allowed.

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

January 14, 2025

(ANIL KSHETARPAL)
JUDGE

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