



RSA-9832-2018 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(106)

RSA-9832-2018 (O&M)

Date of decision:- 01.03.2025

Hem Raj

...Appellant

Versus

Vishnu and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Yash Paul Khullar, Advocate
for the appellant.

...

SUVIR SEHGAL, J. (Oral)

1. Appellant-Plaintiff No.1 is in second appeal assailing concurrent findings of fact recorded by the two Courts below.

2. Plaintiffs filed a suit for declaration to the effect that along with proforma defendants No.19 to 21, they are the owner in possession of half share of the suit land, and that the revenue entries reflecting defendants No.1 to 18, as owners to the extent of 1/4th share, are incorrect and are liable to be corrected. A decree of permanent injunction was also sought, restraining defendants No.1 to 13, from interfering in the peaceful possession of the plaintiffs and proforma defendants.

3. Pleaded case is that Dilkhus is the common ancestor of the plaintiffs, defendants No.1 to 15, and proforma defendants No.19 to 21. Dilkhus had two



sons, Sukh Lal and Ishwar. They owned agricultural property in village Lohina, now Tehsil Hodal, District Palwal, as well as in village Govindgarh (Kani Garhi), Tehsil Jewar. A family settlement took place by virtue of which plaintiffs and proforma defendants, through their ancestor Sukh Lal, became absolute owners in possession of land in village Lohina, Tehsil Hodal, District Palwal, and defendants No.1 to 15, through their ancestor, Ishwar, became owners of land in a village Govindgarh (Kani Garhi), Tehsil Jewar. Defendants No.1 to 15 got the revenue entries corrected in respect of the suit land, which fell to their share. Plaintiffs claim that revenue entries in the names of defendants No.1 to 15 qua land which fell to the share of plaintiffs are wrong. On the basis of erroneous entries, defendants No.1 to 15, alienated the suit land on 08.06.2009 in favour of respondents-defendants No.16 to 18, and the sale deed is illegal, null and void. A deed (Daswardari Deed), registered on 11.01.2008, was fraudulently executed from Panna Devi, Hardai, daughter of Paima, son of Ishwar. Defendants No.1 to 18 fraudulently got the land registered with the sub-Registrar on 8.06.2009, despite being aware that Hardai had already expired. On the basis of incorrect revenue entries, defendants No.1 to 18, are trying to dispossess the plaintiffs and proforma respondents from the suit land, resulting in the institution of the suit.

4. Notice of the suit was given to the defendants, who filed separate written statements. In their response, defendants No.1 to 15, contested the suit and denied the family settlement. They supported the sale deed executed in favour of defendants No.16 to 18, as well as the deed executed on 11.01.2008.



denied. In their separate written statement, defendants No.16 to 18, *inter alia*, stated that they purchased the suit land by sale deed dated 08.06.2009, for a consideration of Rs.16,54,000/-. It is their stand that the sale deed was to the knowledge of all the parties. Proforma defendants No.19 and 21, filed a written statement supporting the plaintiffs. Plaintiffs did not file any replication and issues were framed on the basis of the pleadings of the parties, who led evidence in support of their respective case. After trial, suit was dismissed by the Trial Court by judgment and decree dated 12.10.2015. Appellant-plaintiff No.1 remained unsuccessful in the first appeal, which was dismissed by the learned Additional District Judge, Palwal, by judgment dated 30.05.2018, resulting in the institution of the present appeal.

5. I have heard Mr. Yash Paul Khullar, Advocate, counsel for the appellant, at length, and considered his arguments besides examining the Trial Court record.

6. On the basis of the ocular evidence, it stands established that the parties are the descendants of Dilkhus. However, the parties have not been able to lead any evidence to show that their common ancestor possessed joint family property and any family settlement had taken place. There is not even an iota of evidence to show that in pursuance to any settlement, defendants No.1 to 15, came in possession of the land in village Govindgarh, Tehsil Jewar, and that the plaintiffs were given the land holding in village Lohina. The onus to prove the issue was on the plaintiffs, which they could have discharge by producing evidence. The entire stress is on some oral settlement, which the plaintiff's



the Relinquishment Deed, executed by Hardai, is concerned, it has come on the record during the course of evidence that Hardai had expired on 29.11.2009, and not in 1999, as had been claimed by the plaintiffs. The thumb mark on the Relinquishment Deed has been examined by a forensic expert. Sale deed dated 08.06.2009, in favour of defendants No.16 to 18, has been duly proved, and defendants No.16 to 18, are admitted to be in possession of the land. Plaintiffs have also failed to establish that they have perfected their title by way of adverse possession. Examined from every angle, this Court is of the view that there is no infirmity or illegality in the judgments passed by the courts below, which are affirmed.

- 7. Appeal, being devoid of merit, is dismissed with no order as to costs.
- 8. As the main case has been decided, pending applications are disposed off.

(SUVIR SEHGAL)
JUDGE

01.03.2025
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes