



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

(119)

**RSA No.99 of 2019 (O&M)
Decided on :21.04.2025.**

Bhupinder Singh

...Appellant

Vs

Gurdev Singh (deceased) through LR's and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Deepak Goyal, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiff's appeal against judgment and decree dated 18.07.2018, passed by the Court of learned Additional District Judge, Sangrur, dismissing the appeal filed against judgment and decree dated 12.04.2016, passed by the Court of learned Civil Judge (Jr. Division), Dhuri, vide which the suit for declaration filed by the plaintiff was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. A suit for declaration was filed by the plaintiff to the effect that he was co-owner and in possession of different parcels of land (fully described in the plaint) situated in the revenue estate of village Issi, Tehsil Dhuri (hereinafter referred to as the suit land). A declaration was sought that registered transfer deed no. 2008 dated 24.09.2009 executed by defendant no.1 in favour of defendants no.2 and 3 with regard to the land measuring 40 Bighas was illegal, null and void. A further declaration was sought that the registered sale deed dated 21.09.2010 registered with Sub-Registrar, Dhuri

and executed by defendant no.1 in favour of defendant no.4 with respect to land measuring 16 bighas 13 biswas 06 biswasies situated at village Issi was also illegal, null and void. Further, consequential relief of permanent injunction restraining the defendants from interfering in the peaceful possession of plaintiff over the suit property was sought.

3.1. The case set up by the plaintiff was that he was co-owner in joint possession of the suit land in respect of 1/3rd share. It was claimed that 20 years prior to filing of the present suit, an oral family settlement had been executed as per which the defendant no.1 had distributed his entire land measuring 60 bighas to his three sons to the extent of 20 bighas each. It was averred that defendant no.1 was being maintained by the plaintiff and defendants no.2 and 3. However, in view of the fact that the factum of oral settlement had not been recorded in the revenue record, defendant no.1 executed transfer/sale deeds mentioned in the opening part of the judgment. It was averred that on account of the oral family settlement having been arrived at, the said transfer deeds were illegal, null and void and are not binding on the ribs of the plaintiff.

4. Defendant no.1-Gurdev Singh expired during the pendency of the suit and was then represented by defendants no. 2 and 3. Defendants no. 2 and 3 filed written statement raising preliminary objections as regards maintainability, limitation, cause of action, *locus standi* etc. On merits, it was denied that any oral family settlement had been arrived at. It was maintained that the suit land was owned by defendant no.1-Gurdev Singh and he had rightly alienated his land by way of registered transfer/sale deeds.

5. In the replication, the averments made in the written statement were denied and those made in the plaint were reiterated.

6. From the pleadings of the parties, following issues were framed by the learned trial Court:-

1. Whether plaintiff is entitled to the relief of declaration as prayed for? OPP
2. Whether Transfer deed No. 2008 dated 24.09.2009 executed by defendant no.1 in favour of defendants no.2 and 3 is null and void and liable to be set aside? OPP
3. Whether the registered sale deed no.1941 dated 21.09.2010 executed by defendant no.1 in favour of defendant no.4 is null and void and liable to be set aside? OPP
4. Whether plaintiff is entitled to the relief of permanent injunction as prayed for? OPP
5. Whether plaintiff has no cause of action or locus standi to file the present suit? OPD
6. Relief.

7. Parties led their respective evidence. The trial Court dismissed the suit vide judgment and decree dated 12.04.2016 and the appeal filed against the said judgment and decree was also dismissed by the Court of learned Additional District Judge, Sangrur, leading to the filing of the present Regular Second Appeal.

8. I have heard learned counsel for the appellant.

9. Learned counsel for the appellant submits that despite an oral family settlement having been arrived at, both Courts non-suited the plaintiff. He submits that once an oral family settlement had been arrived at between the parties, Gurdev Singh was left with no right to alienate the suit land. He submits that in view of the same, the suit filed by the plaintiff deserved to be decreed.

10. I have considered the submissions made by learned counsel for the appellant but find the same to be devoid of merit.

11. The plaintiff is the son of defendant no.1 and brother of defendants no.2 to 4. Admittedly, defendant no.1 was the owner of the suit land. The case set up by the plaintiff of an oral family settlement having been arrived at, could not be proved by him. Though, two witnesses stepped into the witness box and stated about the oral family settlement but no corroboration in the form of documentary evidence was there to prove the said fact. It was found by both Courts that the said settlement was not incorporated in the revenue records and the suit land continued to be owned by defendant no.1. Accordingly, it was found that the alienation of the suit land by defendant no.1 by way of registered transfer/sale deeds was in accordance with law. Under the circumstances, the plaintiff was rightly non-suited by both the Courts below.

12. The cumulative result of the aforesaid discussion is that no illegality was committed by the Courts in dismissing the suit filed by the plaintiff. Accordingly, I find no reason to interfere in the findings recorded by both the Courts.

In view of the above, I do not find any merit in the present appeal and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

April 21, 2025
Rekha

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