

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

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RSA-923-2024 (O&M)**Date of Decision: 01.04.2025****JITENDER AND OTHERS**

.....Appellants

Vs

RAMPHOOL AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Vijay Kumar Jindal, Sr. Advocate with
Mr. Akshay Jindal, Advocate and
Mr. Vrishank Suri, Advocate
for the appellants.

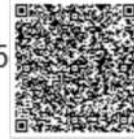
DEEPAK GUPTA, J.

Plaintiffs of the case are before this Court against the concurrent findings of the Courts below. Suit for declaration and consequential relief of injunction regarding property in dispute filed by the plaintiffs-Jitender and others (*appellants herein*) was dismissed by the trial Court on 13.12.2022 and the said judgment has been upheld by the First Appellate Court on 04.01.2024.

2. As the paper book would reveal, plaintiff Nos. 1 to 8 are the children and plaintiff No.9 is the wife of defendant No.3-Dharambir. It was claimed that plaintiffs along with defendant No.3 formed a joint Hindu Family and that suit property was coparcenary ancestral property in the hands of its Karta - defendant No.3, which could not be alienated in the absence of any legal necessity.

3. Plaintiffs assailed two sale deeds i.e. one dated 16.03.2001 in favour of defendant No.1; and other dated 18.11.2011 regarding land detailed in Para No.2 of plaint in favour of defendant No.2 as executed by defendant No.3.

4. As conceded by learned Senior counsel for the appellants that the dispute regarding the sale deed dated 16.03.2001 in favour of respondent No.1 has since been settled up to Hon'ble Supreme Court and therefore, the present



lis is confined only to the challenge to the sale deed dated 18.11.2011 as executed by respondent No.3 in favour of respondent No.2.

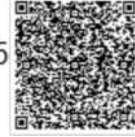
5. It was alleged by the plaintiffs that defendant No.3 was not a man of good habits; that he was drunkard and had even kept a mistress from whom he had a daughter. It was further their case that sale deed dated 18.11.2011 in respect of 18 kanal of land was executed in pursuance of judgment and decree dated 19.11.2003 passed in Civil Suit No.427 of 1997 titled as 'Sudesh Pal Vs. Dharambir'. The said suit filed by defendant No.2 of the present case seeking specific performance of agreement to sell dated 30.01.1996, was decreed in his favour.

6. Suit was contested by defendant No.2, who denied the nature of the suit property to be ancestral and claimed that suit land was self-acquired property.

7. After framing necessary issues and taking evidence, the trial Court held the suit property to be non ancestral. It was further found that even if sale property was ancestral, the impugned sale deed was for legal necessity. Suit was accordingly dismissed.

8. The First Appellate Court found that out of total land measuring 139 kanal 11 marla, owned by Hukum Chand, the father of Dharambir, who had inherited it from his ancestors, said Hukum Chand had exchanged his 1/2 share with one Munshi but after the death of Munshi, his daughter's had sold two pockets of land measuring 32 kanal 14 marla, and 23 kanal and 14.5 marla to Hukum Chand and as such, the suit property could not be held to be ancestral in nature. Endorsing the findings of the trial Court, the appeal of the plaintiffs was accordingly dismissed.

9. Assailing the aforesaid findings, it is argued by learned Senior Advocate that in case the ancestral part of the total holding can be segregated from the non ancestral part, then the entire property cannot be held to be non ancestral.



10. However, to the specific query put by this Court, it is conceded by Ld. Senior Advocate that in the impugned sale deed executed by defendant No.3 in favour of defendant No.2, it is not clear that specific khasra numbers had been sold and so, it is not possible to segregate the ancestral portion from non ancestral.

11. Apart from above, as has been observed by learned trial Court in para 45 of the judgment that the agreement to sell, which was executed by defendant No.3 in favour of defendant No.2 prior to the impugned sale deed, it was specifically mentioned that he (*vendor-defendant No.3*) was in dire need of money for maintenance of his family; that he could not make any other arrangement for the same; and that out of suit property being sold, some property was *khadda Jaat*, which was not beneficial and so, considering these conditions, he was selling the land to defendant No.2.

12. It is, thus, evident from the above said observations, which are based upon proper appreciation of evidence that sale of the suit property by defendant No.3 was not only meant for legal necessity but also an act of good management. Learned Senior Advocate could not convince this Court that the aforesaid observations, as made by trial Court, are the result of any mis-appreciation of evidence.

13. On account of entire discussion as above, this Court has no hesitation to conclude that there is no illegality or perversity in the impugned judgments, calling for any interference in the well-reasoned concurrent findings of facts, as recorded by the Courts below. As such, holding the appeal to be devoid of any merit, the same is hereby dismissed.

01.04.2025

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Whether speaking/reasoned : Yes
Whether reportable : No

(DEEPAK GUPTA)

JUDGE