

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

120

**RSA-1176-2021 (O&M)
Date of decision : 10.07.2025**

Surender Singh

..... Appellant

versus

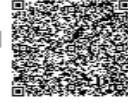
Sardar Singh Deceased through his LRs and others..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sudhir Rana, Advocate
Mr. Pravleen Kumar, Advocate and
Mr. Ankush Duhan, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal.
2. Plaintiff filed suit seeking decree of declaration to the effect that the contesting plaintiff and proforma defendant No.7 are co-sharers in possession of agricultural land and the sale deed executed by defendant No.1 was illegal, null and void as the property is ancestral and the sale has been effected without there being any legal necessity.
3. Suit was contested by defendants. Defendant No.1 in his written statement disputed the locus of the plaintiff to file the present suit. Defendant No.1 claimed that the property in question was his self acquired property. It was denied that the plaintiff along with defendants constitute a Joint Hindu Family as claimed. As per the defendants, the parties are living separately since 1992 in all respects. With the help of defendant No.1, plaintiff has constructed his residential house in Mohindergarh. The answering defendant had made payment of



approximately Rs. 1 crore to the plaintiff. The property which is subject matter of sale deed dated 10.02.2006 was a self acquired property of answering defendant which was sold for Rs.50 lacs which was paid to the plaintiff. Defendant No.2 and 3 filed separate written statement denying the property being ancestral or coparcenary property as alleged by the plaintiff. Separate written statement was filed by defendant No.4 who claimed to be a bonafide purchaser. Defendant No.5 filed separate written statement claiming that defendant No.1 executed sale deed in her favour claiming the property to be his self acquired property. The present suit has been filed by plaintiff in collusion with defendant No.1 to 3 and defendant No.7.

4. Suit filed by the plaintiff was put to trial framing following issues:-

- “1. Whether the suit land was ancestral in the hands of defendant No. 1? OPP
2. Whether there was no legal necessity to sell the suit land by virtue of impugned sale deed No. 382 dated 16.06.2008 and No. 475 dated 30.06.2008? OPP
3. Whether the defendants No. 4 and 5 are bonafide purchaser? OPD
4. Whether suit has not been valued property for the purpose of court fee and jurisdiction? OPD
5. Whether plaintiff has not approached the court with clean hands? OPD
6. Relief.”

5. After appreciating the evidence on record, the Courts below concurrently found on the basis of admission made by the plaintiff himself that the properties when sold, the proceeds thereof were distributed among plaintiff and defendant No.2 by defendant No.1.



6. Counsel for the appellant while assailing the findings submits that at no point of time, defendant No.7 was paid her share and for this reason the sale deeds are bad. He further submits that once the land was proved to be ancestral in nature, it was incumbent upon the defendants to prove that the sale deed was effected qua legal necessity.

7. Having heard counsel for the appellant and after perusing the records of the case, this Court finds that the argument raised is misconceived and cannot be accepted. Admittedly, having the share out of the sale proceeds, the plaintiff has no right to assail the sale deed merely for the reason that defendant No.7 was not given her due. For the said reason, the sale deeds cannot be set aside.

8. Finding no merits in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

10.07.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No