



RSA No.2833 of 2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.2833 of 2023 (O&M)

Reserved on:26.03.2025

Pronounced on: 02.04.2025

Jarnail Singh

.....Appellants

Vs.

Sampuran Kaur and others

.....Respondents

**CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Manjinder Singh Saini, Advocate  
for the appellant.

Mr. Jagjit Singh Chatrath, Advocate  
for the respondent- caveator.

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**DEEPAK GUPTA, J.**

Plaintiffs- Jarnail Singh, Gurpreet Singh and Sandeep Singh (*now appellant and proforma respondents No.5 & 6*) brought the suit against defendant Sampuran Kaur and others (*contesting respondents herein*) seeking partition of the suit property detailed in the plaint. They further assailed sale deed bearing Vasika No.3860 regarding 02 kanal 05 marlas of land executed by defendant No.1 in favour of her son – defendant No.2 and another sale deed bearing Vasika No.3861 regarding 01 kanal 11 marlas of land in favour of defendants No.3 and 4. Defendant No.1 is the mother of plaintiff No.1, whereas plaintiffs No.2 & 3 are the grandsons being the sons of another deceased son of defendant No.1.

2.1 According to plaintiffs, suit property was purchased by Shri Jagir Singh, the father of plaintiff No.1 in the name of defendant No.1: that after the death of Jagir Singh, family settlement had been effected between the parties on 25.10.1997 and that the plaintiffs are entitled to 5/104 share out of the total land. Plaintiffs submitted further that by breaching the family settlement, defendant No.1 had executed the impugned sale deeds.

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2.2 The defendants contested the suit by denying any family settlement. They further denied that suit property was purchased by Jagir Singh in the name of defendant No.1. Defendant No.1 claimed to be exclusive owner of the suit property, which was her self-acquired property and that she had the right to sell, gift or exchange the same to any person, she wished. Objection was also raised that suit was barred by limitation. The defendants prayed for dismissal of the suit.

2.3 Necessary issues were framed. Evidence produced by the parties was taken on record.

2.4 Trial Court dismissed the suit by way of the judgment dated 15.12.2017. In the appeal filed by only one of the plaintiffs, namely, Jarnail Singh, he moved an application under Order 41 Rule 27 CPC for production of additional evidence, which was allowed by the Appellate Court. However, after hearing both the sides, the appeal was ultimately dismissed by the First Appellate Court on 27.07.2023.

3. Aggrieved by the afore-said concurrent findings, plaintiff No.1 - Jarnail Singh has approached this Court by way of the present Regular Second Appeal, contending that evidence on record has not been properly appreciated. It is argued by learned counsel that defendant No.1 - Sampuran Kaur while entering the witness box had admitted the execution of the family settlement dated 25.10.1997 'Mark A', which was put as Ex.P.14. Besides, PW4 Jaspal, the attesting to the agreement also proved the same. It is argued that in these circumstances, the suit was liable to be decreed and has been wrongly dismissed.

4. However, Id. counsel for the respondents by refuting the above contentions, has defended the judgments passed by the Courts below submitting that the same are based on proper appreciation of evidence.

5. This Court has considered submissions of both the sides and have appraised the record carefully.

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6. It is not in dispute that suit property was owned by defendant No.1 – Smt. Sampuran Kaur and so, it is her self-acquired property, as it was purchased by her. The contention of the plaintiffs that the suit property was purchased by their father Jagir Singh in the name of Sampuran Singh, is not proved on record. Once it is so that defendant No.1 was the exclusive owner of the suit property, she was free to deal with it, the way she liked.

7. Plaintiff No.1 who is the son and plaintiffs No.2 & 3 who are the grandsons of defendant No.1 claim that a partition had been effected on 25.10.1997 and so they are entitled for the land on which they had raised construction. However, original of the said alleged family settlement had never been brought on record. Its photocopy was produced in evidence as 'Mark A' which was later on put as Ex.P14, when Sampuran also known as Purani admitted the same during her cross-examination. Plaintiffs also examined one of the attesting witnesses, namely, Jaspal as PW4 who proved the same.

8. However, the trial Court as well as the Appellate Court have rightly rejected the said document in the absence of production of the original. No permission was ever sought by the plaintiffs from the trial Court to prove the said document by way of the secondary evidence. Apart from this, as noticed by the First Appellate Court, the description of the property was not at all mentioned in the said document Ex.P14. So much so, the document was unregistered.

9. Since the property in question was self-acquired in the hands of defendant No.1- Smt. Sampuran Kaur, therefore, no rights could be created in favour of any of the parties without getting the document registered.

10. As such, the Courts below have rightly rejected the alleged family settlement relied by the plaintiffs. Defendant No.1 were the exclusive owner of the suit property, and therefore, the impugned sale deeds as executed by her either in favour of defendant No.2 or in favour of

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defendant Nos.3 and 4 cannot be held to be null and void for any reason.

11. On account of the afore-said discussion, it is held that there is no reason to disturb the concurrent findings of facts as recorded by the Courts below in the absence of any illegality or perversity. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

**April 02, 2025****(DEEPAK GUPTA )****renu****JUDGE**

Whether Speaking/reasoned Yes/No

Whether Reportable Yes/No