



RSA-187-2022 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:04.03.2025

DESHRAJ

...APPELLANT

VS.

BHAGWANA AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. V.D. Sharma, Advocate
for the appellant.

SUVIR SEHGAL, J.

1. Appellant, who is one of the defendants, has filed the instant appeal, assailing concurrent finding recorded by both the Courts below.
2. Respondents No.1 and 2/plaintiffs filed a suit for declaration to the effect that along with proforma defendants No.5 and 6, they are owners in possession of half share each in land measuring 17 marlas situated in Village Alwalpur, Tehsil and District Rewari (for short "suit land") by virtue of sale deed dated 11.12.1989 and that they are entitled to get their names entered in the revenue record. A decree for declaration was also sought to the effect that release deed by Hari Ram in favour of his sons is a null and void document and is liable to be set aside as the land in dispute had been sold by Hari Ram to the plaintiffs. A decree of permanent injunction was sought to the effect that defendants No.3 and 4 may be restrained from



selling or alienating the suit land.

3. Pleadings of the plaintiffs is that they purchased the suit land vide sale deed dated 11.12.1989 and became its owners. They could not get the mutation entered in the revenue record, which reflected the names of the vendors. Taking advantage of the incorrect entries in the revenue record, a release deed dated 12.06.2012 was executed by Hari Ram in favour of his sons Deshraj (present appellant) and Suresh Kumar, who have no right, title or interest in the land. Alleging that the defendants colluded with each other and managed to get a mutation sanctioned in their favour, plaintiffs filed the suit. Upon notice, defendants No.1 to 4 filed a written statement contesting the suit by taking various preliminary objections. A stand was taken that the suit land was owned by a number of persons, besides Hari Ram and all the co-sharers were necessary parties to the suit. Sale deed in favour of the plaintiffs was specifically denied and it was averred that it is a forged document. It was claimed that the defendants are the co-owners and are in possession of the suit land along with others. The defendants asserted that the release deed is a legal document and the parties are bound by it. Defendants No.5 to 11 were proceeded against *ex parte*. Trial Court framed issues on the basis of the pleadings of the parties, who led evidence in support of their respective case. After contest, by judgement dated 10.12.2018, Trial Court decreed the suit. Deshraj, appellant, one of the defendants, filed an appeal, which was rejected by the learned Additional District and Sessions Judge by judgement dated 17.02.2021 resulting in the institution of the instant second appeal.



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4. Counsel for the appellant has argued that the revenue entries show that Hari Ram, predecessor of the appellant, was the owner of the suit land and he executed a release deed dated 12.06.2012 in favour of his sons, including the present appellant. He asserts that the appellant became owner of the suit land and plaintiffs are not entitled to declaration of ownership. It is his argument that the Courts below have failed to appreciate the evidence and its right perspective and have fallen in error while decreeing the suit.

5. I have heard counsel for the appellant and considered his submission besides examining the paper-book.

6. Plaintiffs have lead evidence and proved sale deed dated 11.12.1989, Ex.P-3, which has been executed by Mangal Singh and Hari Singh sons of Jit Singh. By virtue of Ex.P-3, suit land has been sold to plaintiffs and possession has been delivered to them. Taking advantage of the fact that mutation on the basis of the sale deed was neither entered nor sanctioned, Hari Singh executed a release deed No.464 dated 12.06.2012 in favour of his sons Deshraj, appellant herein, and Suresh Kumar. Once the execution of the sale deed, Ex.P-3, stands duly proved, Hari Singh had no title or interest in the property and he could not have executed a release deed in favour of his sons, who cannot claim any right in the suit property. Failure to get the sale deed mutated in the revenue record would not divest the plaintiffs of their ownership in the property. It also stands established that specific khasra numbers were mentioned in the sale deeds and plaintiffs, who are in continuous possession of their respective share, have raised construction in some portion of the suit land. The judgements and decrees have been passed by both the courts after proper appreciation of evidence led



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by the parties and do not call for any interference. Findings recorded by the courts below are affirmed.

7. Appeal being devoid of merit, is dismissed, with no order as to costs.

8. Pending application(s), if any, is/are disposed off.

04.03.2025

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No