

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-5969-2019 (O&M)
Date of Decision:06.02.2025****SURENDER SINGH****. . . .APPELLANT**

Vs.

DASHRATH SINGH AND OTHERS**. . . . RESPONDENTS****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. S. S. Shekhawat, Advocate, for the appellant.

DEEPAK GUPTA, J.

Suit for declaration filed by plaintiff-Dashrath Singh (*respondent No.1 herein*) was decreed by the trial Court on 10.03.2017. Appeal filed by defendant No.2-Surender Singh (*appellant herein*) was dismissed by the First Appellate Court on 23.07.2019. Against these concurrent findings, defendant No.2 has approached this Court by way of the present Regular Second Appeal.

2.1 As the facts emerge on perusal of the paper-book, Rattan Singh and Suraj Bhan are the sons of Bihari. Rattan Singh (defendant No.1) has three sons, namely, Dashrath Singh (*plaintiff*), Surender Singh (*Defendant No.2*) and Madan Singh (*proforma defendant No.3*). Suraj Bhan had three sons namely, Karan Singh, Angad Singh and Pawan Singh (*proforma defendants No.4 to 6*).

2.2 According to the plaintiff, suit property measuring 59 kanal 5 marla is a joint Hindu family property, jointly owned and possessed by him (plaintiff) along with defendants No.2 & 3 to the extent of 1/2 share. By virtue of registered release deed dated 09.08.2011, defendant No.1 released the said property in favour of plaintiff and defendants No.2 & 3. However, defendant No.2 without getting the land portioned started digging foundation in part of the joint land and when plaintiff raised objection, defendant No.2, for the first time, disclosed that he had taken specific Khasra numbers of the suit land to the extent of 28 kanal 16 marlas on lease from defendant No.1 vide registered lease deed dated 13.12.2005 for a period of 30 years and so, he had right to

raise construction on the said leased portion. Plaintiff challenged the said lease deed to be null and void, illegal and not binding upon his rights and stated that it was a paper transaction, which was got executed and registered to save the recognition already granted to school being run by defendant No.2 as *Sanchalak* of Pushpa Siksha Samiti, Jalalpur. Claiming that entire property was joint of the parties to the suit and that lease deed was without consideration, prayer was made to set it aside.

2.3 Defendants No.1 & 2 contested the suit and claimed that school was being run on the suit property since 1997 and that lease deed was got registered with the consent of the plaintiff and defendant No.3. Defendant No.3 admitted the claim of the plaintiff.

2.4 Necessary issues were framed. Evidence produced by the parties was taken on record. Trial Court found the suit property to be joint Hindu family property and ancestral in nature. Trial Court further held the impugned lease deed to be null and void and as such, decreed the suit on 10.03.2017.

2.5 In the appeal filed by defendant No.2, the First Appellate Court affirmed the findings, after appreciating the entire evidence, oral as well as documentary and held that suit property was Joint Hindu Family ancestral and coparcenery. It was further found that Rattan Singh as karta of Joint Hindu Family did not have right to execute the impugned lease deed in respect of the joint property. It was also found that there was no legal necessity to execute the lease deed. So much so, said Rattan Singh had not even appeared in the witness box to prove any such legal necessity. The First Appellate Court also noticed that lease deed was fraudulent in nature, inasmuch as total lease money of the leased out property for 30 years was shown to be ₹60,000/- i.e. ₹2000/- per annum. On the other hand, document Ex.DA, executed in May 2007 and Ex. DB, executed in May 2007 regarding same quality of land, revealed that lease amount for one year only in the same area to be ₹ 1,25,000/-. After appreciating the entire evidence, the First Appellate Court affirmed the finding of the trial Court and dismissed the appeal.

3. Assailing the aforesaid concurrent findings, it is contended by Id. counsel that the Courts below have failed to appreciate the evidence on record in right perspective.

4. However, despite arguing at length, counsel for the appellant failed to convince this Court regarding any illegality or perversity in the impugned judgment and decree passed by the First Appellate Court affirming the judgment of the trial Court. The entire discussion made by the First Appellate Court would reveal that it is based on the proper appreciation of evidence, oral as well as documentary on record and this Court does not find any ground to interfere in the said concurrent finding of fact. As such, holding the present appeal to be devoid of any merit, the same is hereby dismissed.

06.02.2025

Vivek

**(DEEPAK GUPTA)
JUDGE**

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| <i>Whether speaking/reasoned?</i> | <i>Yes</i> |
| <i>Whether reportable?</i> | <i>No</i> |