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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

RSA-1019-2024 (O&M)
Date of decision: 21.04.2026

Som Kaur

. . . . Appellant

Vs.

Savita Devi and others

. . . . Respondents

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr.Shashikant Gupta, Advocate, for the appellant.

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DEEPAK GUPTA, J.

The present Regular Second Appeal has been filed by the appellant–plaintiff assailing the judgment & decree dated 30.11.2023 passed by the learned first appellate Court, whereby the appeal preferred against the judgment & decree dated 11.01.2016 of the trial Court was allowed and, as a consequence, the suit filed by the plaintiff seeking declaration and consequential relief came to be dismissed. The appellant seeks reversal of the said findings.

2. The factual backdrop, as emerges from the record, is that the suit property originally belonged to Mukhram and, upon his demise, devolved upon Manohar Lal. It is not in dispute that Manohar Lal had two sons and five daughters, including the plaintiff. The plaintiff laid a claim that upon the death of Manohar Lal, she became entitled to 1/7th share in the suit land being one of the natural heirs. The foundation of her claim further rested upon the assertion that a consent decree dated 25.07.1996 suffered by Manohar Lal in favour of some of the defendants had already been set aside by a competent Court vide judgment dated 15.05.2004, which attained finality up to the High Court. On that premise, it was contended that the subsequent sale deeds dated 18.08.2004 executed by Manohar Lal in favour of Dalip Kumar and the further

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transfer dated 04.05.2011 were illegal, null and void and not binding upon her rights.

3. The trial Court, on the basis of ex parte evidence led by the plaintiff, decreed the suit and declared her entitled to 1/7th share in the suit property, while also setting aside the impugned sale deeds.

4. However, in appeal, the learned first appellate Court undertook a comprehensive re-appreciation of the material available on record and reversed the findings of the trial Court. It was held that once the consent decree dated 25.07.1996 stood set aside by judgment dated 15.05.2004, the property reverted back to Manohar Lal and he became competent to deal with the same as absolute owner. The sale deeds dated 18.08.2004 having been executed prior to the coming into force of the Hindu Succession (Amendment) Act, 2005, were held to be valid and not open to challenge at the instance of the plaintiff, who at the relevant time did not possess any coparcenary right in the property.

5. Assailing the aforesaid findings, learned counsel for the appellant has argued that the Courts below have failed to properly appreciate the legal effect of setting aside the earlier consent decree and the pendency of litigation at the time when the sale deeds were executed. It is contended that the alienations effected by Manohar Lal were hit by the doctrine of lis pendens and that the plaintiff, being a daughter, was entitled to claim a share in the ancestral property.

6. Having heard learned counsel for the appellant and perused the record, this Court finds that the scope of interference in a second appeal is limited to substantial questions of law arising from the case. Concurrent or well-reasoned findings of fact cannot be disturbed unless it is demonstrated that the same are perverse, based on misreading of evidence or suffer from a patent illegality.

7. In the present case, certain foundational facts are not in dispute. It stands established that the consent decree dated 25.07.1996, by virtue of which the property had earlier been transferred, was set aside by a competent Court vide judgment dated 15.05.2004, which attained finality. The necessary

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legal consequence of setting aside of the said decree was restoration of ownership in favour of Manohar Lal, thereby placing him in the same position as he stood prior to the decree. The principle of restoration to status quo ante squarely applies in such circumstances.

8. Once it is held that Manohar Lal became the absolute owner upon annulment of the consent decree, the further question that arises is with regard to the validity of the sale deeds executed by him on 18.08.2004. Admittedly, these transactions were effected prior to 20.12.2004, i.e., before the enforcement of the Hindu Succession (Amendment) Act, 2005. It is by now well settled that the said amendment is prospective in nature and does not invalidate alienations that had already taken place prior to the cut-off date. The plaintiff, therefore, cannot derive any advantage from the amended provisions so as to challenge transactions that were validly entered into before the amendment came into force.

9. The contention raised on behalf of the appellant regarding applicability of the doctrine of lis pendens also does not advance the case any further. Though it is true that the sale deeds were executed during the pendency of litigation relating to the consent decree, the ultimate outcome of that litigation was in favour of setting aside the consent decree, thereby affirming the title of Manohar Lal. In such a situation, the doctrine of lis pendens cannot be invoked to invalidate transfers made by a person who ultimately stands recognized as the lawful owner.

10. It is also significant to note that on the date of execution of the sale deeds, the plaintiff did not possess any vested right in the property. The succession had not opened, and she did not enjoy the status of a coparcener under the unamended law. Consequently, no legal injury can be said to have been caused to her by the alienations effected by Manohar Lal.

11. The findings recorded by the first appellate Court are based on admitted documents, registered sale deeds, and prior judicial determinations. No material has been pointed out to show that such findings suffer from perversity or are based on misreading of evidence. Rather, the reasoning

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adopted by the first appellate Court reflects correct application of settled legal principles.

12. In view of the foregoing discussion, this Court is of the considered opinion that no substantial question of law arises for determination in the present appeal. The appeal is, accordingly, devoid of merit.

13. Consequently, the present Regular Second Appeal is dismissed. Pending applications, if any, also stand disposed of.

(DEEPAK GUPTA)
JUDGE

21.04.2026
Vivek

Whether Speaking/reasoned *Yes*
Whether reportable *No*