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Basant Singh Vs Maha Singh and Another

None

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 23, 2010

Citation: (2010) 08 P&H CK 0355

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Mahesh Grover, J.

This appeal by the plaintiff is directed against the judgment of the Trial Court dated 20.9.1983 and that of the

Appellate Court dated 26.7.1984. The father of the appellant is said to have executed a registered gift deed on 22.1.1957 which was registered

on 17.2.1957 giving half share to Mehtab Singh arrayed as defendant No. 2 and another half share to the appellant. This property was leased out

by Mehtab Singh in favour of Maha singh arrayed as defendant No. 1 for a period of 99 years for a consideration of Rs. 5,000/- which lease deed

was executed on 24.6.1976. The appellant then questioned the said lease deed by filing the instant suit in the year 1979 and contended that he

discovered the mistake in the recital of the gift deed and the entire khasra No. 4556/2101 was never intended to be a part of the gift deed.

2. The suit was resisted by the respondent who pleaded that the gift deed validly executed by their father and that second lease deed was validly

executed in favour of Maha Singh. Both the Courts concluded that the gift deed was validly executed in the year 1957 and for the reason that the

appellant had chosen to question the gift deed in the year 1979 much belatedly the suit was barred by limitation and thus dismissed the suit.

3. In the instant appeal, the findings of the Courts below have been questioned on the ground that the findings are patently perverse and are, thus,

liable to be set aside.

4. On the other hand, Learned Counsel for the respondents has contended that the findings of the Courts below cannot be termed to be erroneous

as there was no material on record from where it could be inferred that the gift deed had not been validly executed.

5. After hearing Learned Counsel for the parties, I am of the considered opinion that there is no infirmity recorded in the findings of the Courts

below. The gift deed executed by the father of the appellant Hari Singh was in equal share of the appellant and also respondent No. 2 Mehtab

Singh. This gift deed was executed in 1957 and distinctly mentioned the properties forming the subject matter thereof. This gift deed was obviously

acted upon and the parties were in respective and settled possession of their shares. Strangely enough the appellant did not question the mistake, if

any, in the gift deed for the period of 22 years. That apart no material has been shown from where such an inference can be drawn that the gift

deed was erroneous or the contents thereof were mis-read or mis-construed. For the same reason, the lease deed in question could not have been

questioned by the appellant for the simple reason that he had no interest in the suit property which belonged to respondent No. 2 having derived

his title from the said gift deed which was not questioned by the appellant.

6. Besides, no substantial question of law has been shown to have arisen in the present appeal. Consequently, the appeal is held to be devoid of

any merit and is hereby dismissed.