

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-487-2015

Date of decision: 21.1.2015

Dharam Singh

..... Petitioner

Versus

Satpal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Mr. Bikram Chaudhary, Advocate for the petitioner.

R.P. NAGRATH, J. (ORAL)

The petitioner has invoked revisional jurisdiction of this Court under Article 227 of the Constitution of India, seeking to set aside the order dated 21.10.2014 (Annexure P-6), passed by the learned Additional Civil Judge (Senior Division), Faridabad, whereby the application under Order VII Rule 11 of the Code of Civil Procedure (CPC), filed by petitioner-defendant No. 1 was dismissed.

The suit has been filed by plaintiff-respondents No. 1 to 4 seeking declaration with consequential relief of permanent injunction on the basis of inheritance. The facts of the case as would be revealed from the plaint are that in Civil Suit No. 18 of 1974 (Dharam Singh Vs. Smt. Gopali) filed by petitioner-defendant No. 1 against his mother- Smt.

Gopali, resulted in a consent decree dated 2.2.1974 and the petitioner was declared owner to the extent of 1/14th share in the total land measuring 125 kanals 13 malras. However, according to plaintiff-respondents No. 1 to 4, mutation was sanctioned in favour of the petitioner on 15.6.1978 to the extent of 2/14th share instead of 1/14th share for which the decree was passed. The petitioner-defendant No. 1 instituted the partition proceedings on the strength of his share to the extent of 2/14 as recorded in the revenue record. Report from the Patwari was also obtained by the Revenue Authorities in the year 2012 during partition proceedings and the plaintiff-respondents No. 1 to 4 were informed that since in the jamabandi wrong entry qua the share of petitioner to the extent of 2/14th share was recorded, the Revenue Authorities were incompetent to make corrections.

I have heard learned counsel for the petitioners at considerable length, perused the impugned order and the paper book.

Learned counsel for the petitioner contends that the partition proceedings cannot be challenged before the Civil Court as the Revenue Courts have the exclusive jurisdiction under the provisions of the Punjab Land Revenue Act, 1887(as applicable to Haryana). The above argument is untenable as the prayer made in the suit is for declaration of title. The fact that the suit was filed after so many years of sanction of mutation is a question that has to be determined on merits on conclusion of trial.

In view of the above, the learned trial Court was quite justified in declining the application filed under Order VII Rule 11 CPC by the petitioner. The petitioner-defendant No. 1 has yet to file the

written statement. The order passed by the trial Court is not found to be perverse or illegal requiring interference of this Court.

Dismissed.

January 21, 2015

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**(R.P. NAGRATH)
JUDGE**