

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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*C.M. No. 10881-C of 2009 and
RSA No. 3554 of 2009 (O&M)*

Date of decision: 07.10.2015

Iqbal @ Palla and another

....APPELLANTS

|
VERSUS

Mohd. Yusuf (deceased) through LRs

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Balkar Singh, Advocate,
for the appellants.

Mr. Ravinder Malik (Ravi), Advocate,
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Jagadhri dated 06.09.2007, vide which the suit for redemption of land measuring 8 Kanals, details of which have been mentioned in the head note of the suit situated at Village Jaidhar, Hadbast No. 82, Tehsil Chhachhrauli, District Yamuna Nagar on payment of ₹ 450/- and for restraining the defendants from cutting and removing trees standing in the field, stands dismissed and the appeal preferred against the said judgment by the appellants-plaintiffs also dismissed by the Additional District Judge, Yamuna Nagar at Jagadhri on 04.02.2009.

It is the contention of the learned counsel for the appellants that except for the issue with regard to the non-establishment of the legal heirs by the appellants-plaintiffs, all other issues have been decided in favour of the appellants-plaintiffs. He contends that the said finding given by the Courts below, on this issue, is not justified as the same has not taken into consideration the pedigree table, which has been reproduced in para-2 of the civil suit, according to which, it is apparent that the appellants-plaintiffs are the legal heirs of the deceased Latif. He further contends that as per the oral evidence produced, especially that of the plaintiff-Iqbal @ Palla, who appeared as PW1, which establishes that Latif was unmarried and died as such and after his death, he and his brother Mohd. Hanif, the co-appellant-plaintiff had become the owners of the suit land as they are his legal heirs and except for them, there is no other legal heir. He, thus, contends that the impugned judgments and decree passed by the Courts below deserve to be set aside.

On the other hand, counsel for the respondents has brought to the notice of this Court the discussion with regard to the consideration of the evidence, which has been produced on record by the parties before the trial Court. Special emphasis has been placed on paras 19 to 21 of the judgment of the Lower Appellate Court.

On perusal of the judgments passed by the Courts below and keeping in view the contentions raised by the counsel for the parties, I am of the considered view that the submissions made by the counsel for the appellants cannot be accepted and that of the counsel for the respondents carry weight.

Mere oral assertion of the appellant-plaintiff cannot be

accepted to prove that they are the legal heirs of Latif when no documentary evidence has been produced rather the Courts below have rightly held that the plaintiffs have not produced the pedigree table of the family of Latif maintained by the revenue authorities in order to establish their relationship with the deceased.

Further it is apparent from the order dated 10.06.2003 Ex.D3 passed by the Assistant Collector Ist Grade, Jagadhri in the mutation case regarding the inheritance of Latif, the findings of the Court in Civil Suit No. 298 of 1977 have been referred to, which has been filed by Maqsoodi, who is admittedly the mother of the appellants-plaintiffs and their sister Bashiri claiming to be the legal heirs of Mohd. Sharif, whose property is the one, which is sought to be redeemed and is asserted to have been inherited by Latif. In the said suit, it was claimed by Maqsoodi, the mother of the appellants-plaintiffs that she was the widow of Sharif and Bashiri is the daughter of Sharif. The Sub-Judge had held that Maqsoodi was not the widow of Sharif and Bashiri was not his daughter. The appeal preferred against the said judgment was also dismissed by the learned Additional District Judge, Ambala, which judgment has attained finality.

In the light of these findings given in the Civil Suit, the Courts below have proceeded to return a finding that the appellants-plaintiffs have not been able to establish that they are the legal heirs of the deceased Latif. Reference has also been made in the impugned judgments with regard to the sanction of mutation of inheritance of Latif, which was granted in favour of Mohd. Yusuf, Mohd. Hanif and Mohd. Nasim as per the pedigree table of Allabux and not in the name of the appellants-plaintiffs.

In view of the above, this appeal has no merit as there is no

illegality committed by the Courts below, which would call for interference by this Court.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be just and reasonable, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law, which arises in the present appeal requiring consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

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In view of the dismissal of the main appeal, no separate orders are required to be passed in this application and, therefore, the same stands dismissed.

October 07, 2015

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**