

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

R.S.A.No.3266 of 2010 (O&M)

Date of Decision: September 24, 2015

Smt.Sanjogita & others

...Appellants

Versus

Dharam Chand & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of 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.Gopal Sharma, Advocate,
for the appellants.**

None for the respondents.

AMIT RAWAL, J. (Oral)

The challenge in the present Regular Second Appeal is to the judgment and decree of the Lower Appellate Court, whereby the judgment and decree of the trial Court decreeing the suit of the appellant-plaintiffs, has been set-aside.

Mr.Gopal Sharma, learned counsel appearing on behalf of the appellant-plaintiffs submits that the plaintiffs are none else, but the widow and minor daughters of Prithvi Singh. The claim in the suit was, vis-a-vis 1/4th share in the property measuring 39 kanals 11 marlas and as well as challenge to the judgment and decree dated 5.2.1991 suffered by Mamchand, father of Prithvi Singh in favour of two sons. He further

submits that the property at the hands of Prithvi Singh, was ancestral in nature as Mamchand inherited through Bihari and Bihari through Sheo Karan. In support of the aforementioned submissions, reference to mutation and jamabandies, Exs.P6, P7 and P8 has been made to show the nature and character of the property being ancestral.

Vide sale deed dated 5.12.1990 (Ex.DW2/A), respondent Nos.1 and 2 had sold the land measuring 2 marlas to respondent-defendant No.6.

There is no representation on behalf of the respondents, whereas Mr.Vipin Yadav Advocate had, on earlier occasion, put in appearance on behalf of respondents No.1 to 5 & 6.

I have heard the learned counsel for the appellant-plaintiffs and appraised the paper book.

The trial Court decreed the suit on the basis of the admission of the defendants, whereby they admitted that the property at the hands of Mamchand was inherited by him from his grand-father Sheo Karan, thus, the property, which devolved upon the children of Mamchand, was ancestral in nature. The aforementioned findings have been set-aside by the Lower Appellate Court, on the premise that no excerpt/Kursinama has been proved on record. Ex.P6, Ex.P7 and Ex.P8 have not been proved in accordance with law, except they have been tendered into evidence. Ex.P6 is the jamabandi for the year 1913-14, which shows the property in dispute reflected in the name of Bihari. There is no documentary evidence on record to show that the property devolved upon Bihari and Mamchand from Sheo Karan.

It is settled law that mere exhibition of the document does not dispense with its proof. The admission of the defendants would not change

the character and nature of the property as ancestral, I do not intend to differ with the findings rendered by the Lower Appellate Court, whereby the suit has been dismissed, much less, do not find any illegality and perversity in the findings. No substantial question of law arises for determination by this Court.

The appeal is accordingly dismissed.

September 24, 2015
ramesh

(AMIT RAWAL)
JUDGE