

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

RSA No.3292 of 2010 (O&M)

Date of decision : 19.10.2015

Bhajan Lal

...Appellant

Versus

Sunila

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Ashok Verma, Advocate for the appellant.

Mr. Sanjiv Gupta, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is in Regular Second Appeal against the concurrent findings of fact, whereby suit for declaration vis-a-vis the ownership and possession of the land measuring 33 kanals 10 marlas out of total land measuring 100 kanal 13 marlas as described in the suit and as well as challenge to the sale deed bearing No.6429 dated 21.10.2005 by defendant No.2 in favour of defendant No.1, has been dismissed.

Mr. Ashok Verma, learned counsel appearing on behalf of appellant-plaintiff submits, that Sona Ram @ Sohna Ram along with Ram Chand and Saiyan Ram purchased land measuring 100 kanals 13 marlas i.e.

33 kanals 10 marlas ($\frac{1}{3}^{\text{rd}}$ each). The claim of the appellant-plaintiff was in respect of share of Sona Ram @ Sohna Ram as property at the hands of Sona Ram @ Sohna Ram was ancestral and, therefore, right of appellant being a grandson of Sona Ram @ Sohna Ram had accrued by birth. Both the Courts below have not appreciated this fact and dismissed the suit by holding that property at the hands of Sona Ram @ Sohna Ram was not ancestral and thus, submits that substantial question of law arises for determination by this Court.

Mr. Sanjiv Gupta, learned counsel appearing on behalf of respondent submits, that there is no illegality and perversity in the findings rendered by both the Courts below as findings have been rendered on the basis of oral and documentary evidence. The appellant-plaintiff cannot be said to have any right or share in the $\frac{1}{3}^{\text{rd}}$ share of Sona Ram @ Sohna Ram and submits that such property was self-acquired and prays for dismissal of the appeal.

I have heard learned counsel for parties and appraised the paper book.

It is settled law that grandfather which asserts the right to his grandson by birth in the property being ancestral in nature has to prove pedigree table/kursinama by examining the record if there is agricultural land i.e. an excerpts or if otherwise, through other documentary evidence. No such evidence has been led to prove the nature of the property at the hands of Sona Ram @ Sohna Ram , Ram Chand and Saiya Ram who had $\frac{1}{3}^{\text{rd}}$ share each of the land, having been purchased vide registered documents, much less, was ancestral in character & nature.

Dispute in the present Regular Second Appeal is with regard to the 1/3rd share of Sona Ram @ Sohna Ram. The appellant being grandson of Sona Ram @ Sohna Ram had challenged the sale deed executed by Saiyan Ram in favour of Sunila daughter of Shiv Dayal. Once no documentary evidence has been placed on record to show that property at the hands of Sona Ram @ Sohna Ram, Ram Chand and Saiya Ram was ancestral in nature, he could not have claimed any right by birth.

In my view, the property at the hands of Sona Ram @ Sohna Ram was self-acquired and in case Sona Ram @ Sohna Ram had died intestate, his 1/3rd share would have devolved upon his sons. The appellant cannot claimed any right, title or interest in the share of Sona Ram @ Sohna Ram on the ground that property was ancestral.

I do not find any illegality and perversity in the finding rendered by the Courts below which are based upon appreciation of oral and documentary evidence, much less, no substantial question of law arises for determination by this Court.

Accordingly, the appeal is dismissed.

19.10.2015

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**(AMIT RAWAL)
JUDGE**