

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

RSA No. 3744 of 2011 (O&M)

Date of decision : 3.12.2015

Bachhittar Singh

... Appellant

versus

Dhan Devi and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. C. B. Goel, Advocate, for the appellant.

Rajesh Bindal, J.

The plaintiff is before this Court against concurrent findings of fact recorded by both the Courts below whereby the suit filed by him challenging the validity of judgment and decree dated 20.5.1995 in civil suit no.197 of 1991, Will dated 15.2.1979, gift deeds dated 20.11.1980 and 23.12.1981, subsequent mutations dated 19.2.1981 and 9.1.1982, claim regarding possession of other properties owned by Pirthi Singh son of Gopal Singh @ Gopala being his adopted son, was dismissed. Pirthi Singh died intestate. The appellant is natural son of Dalip Singh. In support of his claim the appellant sought to argue that though in the official records, he is shown son of his natural father Dalip Singh, but still as he was adopted by late Pirthi Singh at the age of 7 years and at that time no document was required to be executed or ceremonies performed for adoption, he declared his adopted son. He had been taking care of late Pirthi Singh and had performed his last rites. It was not disputed by learned counsel that nothing has come on record as to what was the relation of the plaintiff with Pirthi Singh son of Gopal Singh. In support of his plea, learned counsel referred to certain oral and documentary evidence. As against that the stand of the defendants and the material on record produced by them in evidence was that during his entire service career, the appellant had been showing himself to be son of Dalip Singh, his natural father. The appellant must have

joined service after he had attained the age of majority, whereas his claim is that he had been adopted at the age of 7 years. Had it been so, in all his educational qualifications and the service career he would have been shown as son of Pirthi Singh. Still further there was earlier litigation between the parties where the appellant challenged the Will and gift deeds, executed by deceased Pirthi Singh, which was compromised on 20.5.1995, though it was sought to be claimed by the appellant that the compromise having not been acted upon by the defendants, he was not bound by that but the fact remains that the appellant had compromised the dispute. In case he was aggrieved by that he could have availed of his appropriate remedy and not to file a suit claiming declaration that he is adopted son of Pirthi Singh. It has further come on record that after the death of Pirthi Singh on 6.12.1978, the mutation of the land owned by him was entered in the name of his widow Rukmani Devi on 15.2.1979. It was gifted by her in favour of Dhan Devi on 20.11.1980 and 23.12.1981, on the basis of which the mutations were sanctioned.

The challenge in the suit was also made to the earlier judgment dated 20.5.1995, which was passed in terms of compromise arrived at between the parties. No evidence was led by the appellant to substantiate his challenge to the earlier decree which could be on the basis of plea of fraud or misrepresentation.

The entire claim of the appellant is, in fact, based on the fact that he is adopted son of Pirthi Singh but from the entire material on record, it could not substantiated.

For the reasons mentioned above, I do not find any merit in the present appeal. No substantial question of law arises. The appeal is accordingly dismissed. Consequently, the accompanying application is also dismissed.

3.12.2015
vs

(Rajesh Bindal)
Judge