

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.5080 of 2011 (O&M)

Date of Decision: February 23, 2015

Hans Raj & others

...Appellants

Versus

Surajmal & another

...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.Chanderhas Yadav, Advocate,
for the appellants.

Mr.J.P.Dhull, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal is at the instance of the appellant-plaintiffs against the judgment and decree of the trial Court, whereby their suit for seeking declaration qua their claim of ownership and possession of the suit property to the extent of $\frac{3}{4}$ share in equal share in agricultural land and to the extent of $\frac{1}{2}$ share in the property, i.e., house, has been dismissed and even their claim qua setting-aside of the consent decree dated 12.8.1980 suffered by Ram Chander in favour of the respondent-defendants has also been rejected.

The case set out by the appellant-plaintiffs in the suit was that Ram Chander had got half share in the agricultural land from his father Ram

Saroop, which was mutated in his name and his half share was transferred in the name of the appellant-plaintiffs. The half share, which, Ram Chander had acquired after the death of Ram Saroop, was transferred by way of consent decree dated 12.8.1980 in favour of the respondent-defendants.

Learned counsel appearing for the appellant-plaintiffs contends that Ram Chander could not have suffered a consent decree in favour of the respondent-defendants as the appellant-plaintiffs have a right, claim and interest in the estate of Ram Chander, who died issueless and being Class-II heirs, they are also entitled to his share.

He further submits that as regards the house, which was left by Ram Saroop, the same was mutated in the name of the appellant-plaintiffs and Ram Chander in equal shares, i.e., half share each. He further submits that both the Courts below have committed an illegality and perversity in not deciding the aforementioned contentions, much less, has not referred the oral and documentary evidence.

Learned counsel appearing for the respondent-defendants contends that Ram Chander had transferred his share in the agricultural land by way of a consent decree in their favour and the appellant-plaintiffs did not have any right, claim or interest in the same.

As regards the half share in the house, the appellant-plaintiffs have not led any evidence to show that the house was mutated in their name and prays that no substantial question of law is involved in the present appeal to be adjudicated by this Court.

I have heard the learned counsel for the parties and appraised the judgments and decrees of both the Courts below and am of the view that

the appeal is liable to be dismissed for the following reasons:-

The appellant-plaintiffs have not led any evidence to show that the consent decree dated 12.8.1980 suffered by Ram Chander during his life time, who is stated to have died in 1985, suffers from any infirmity and illegality.

The contention that the decree was required to be registered has no force as the appellant-plaintiffs are class-II heirs. The appellant-plaintiffs have already got their half share in the agricultural land on account of death of Ram Saroop, which stood already mutated in their favour. Ram Chander had dealt with his share by transferring the same in favour of defendant No.2.

As regards the house, the appellant-plaintiffs have not led any evidence to show that half share in the house was already mutated in their name and, therefore, the same could not have been also transferred in favour of defendant Nos.1 and 2 by way of aforementioned consent decree. The appellant-plaintiffs failed to lead any evidence in this regard.

In view of what has been observed above, the aforementioned appeal is dismissed as there is no illegality and perversity in the findings rendered by both the Courts below, much less, no substantial question of law arises to be adjudicated by this Court.

There shall be no order as to costs.

February 23, 2015
ramesh

(AMIT RAWAL)
JUDGE