

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

RSA No. 2504 of 2012 (O&M)

Date of decision : 17.7.2015

Bawa Singh

... Appellant

versus

Jagir Kaur and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Ranjit Sharma, 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 for declaration challenging the sale of land by Karnail Singh in favour of Jagir Singh, was dismissed.

In the suit filed by appellant- Bawa Singh son of Karnail Singh, the challenge was made to sale of some part of the land by Karnail Singh to his another son and brother of the appellant. The appellant sought to challenge the transfer by raising the plea that the property in question was ancestral joint Hindu property, hence, the appellant had the share in that and the sale having been made by father without any legal necessity, deserved to be set aside.

Both the Courts below found that the appellant has not been able to make out a case. All what has been produced on record, is the jamabadi for the year 2002-2003. Except that there was no document produced on record showing the nature of the land in the hand of his father Karnail Singh. Rights flow to the appellant only in case he was able to establish on record that the land was ancestral joint Hindu property. The reliance on the cross-examination of Karnail Singh only for the purpose, who at that time was 90 years of age, to claim that he admitted that the property was ancestral has no meaning as mere one line in cross-

examination will not be sufficient to discharge the burden of the appellant-plaintiff to prove that the property in question was ancestral. 90 years old witness with rural background may not be able to understand the legal meaning of ancestral for the purpose of inheritance and rights of the members of the family as coparcener. Hence, some line in his cross-examination will not be of any help to the appellant.

For the reasons mentioned above, I do not find that the findings recorded by the learned Courts below are perverse. No substantial question of law arises. The appeal is accordingly dismissed.

17.7.2015
vs

(Rajesh Bindal)
Judge