

Regular Second Appeal No.1109 of 2013 (O&M) { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1109 of 2013 (O&M)
Date of Decision: August 14, 2015

Balbir Singh & others

...Appellants

Versus

General Public

...Respondent

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.Harit Sharma, Advocate,
for the appellants.

None for the respondent.

AMIT RAWAL, J. (Oral)

The challenge in the present Regular Second Appeal is to the judgment and decree dated 23.11.2011 passed by the Civil Judge (Junior Division), Dasuya, whereby the suit filed by the appellant-plaintiffs has been dismissed and that of the Lower Appellate Court dated 26.11.2012, whereby the appeal filed by the appellants was also dismissed.

Mr.Harit Sharma, learned counsel appearing on behalf of the appellants submits that the necessity had arisen to file the suit as the name of the father of the appellants was recorded as `Darshan Singh' in revenue records, whereas in other documents, i.e., PAN card, voter card, death certificate and ration card, their father's name has been recorded as `Resham Singh', whereas he was known as Resham Singh @ Darshan Singh. Vis-a-

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vis the revenue record, he has already given up the relief in the Regular Second appeal with liberty to move the revenue court for correction of the same.

General Public was ordered to be served through publication, which has been effected. No one has come forward to file the objections to the relief sought in the present appeal.

Learned counsel for the appellants submits that the following substantial questions of law arise for determination of the present appeal:-

- i) Whether the courts below erred in misreading the evidence and the pleadings on record?
- ii) Whether the suit could have been dismissed when there was no opposition from the General Public and the plaintiffs/appellants had proved its case?

Learned counsel for the appellants further submits that from the evidence brought on record, i.e., voter card, death certificate, PAN card and ration card, it is proved that the father name of the appellants is Resham Singh, whereas in the revenue record it is Darshan Singh. He also submits that both the Courts below have committed an illegality and perversity in not referring to the statement of PW-3-Municipal Councillor, who unequivocally stated on oath that Darshan Singh was also known as Resham Singh, i.e., Resham Singh @ Darshan Singh.

I have gone through the impugned judgments and decrees of both the Courts below and found that there is illegality and perversity in the same as the statement of PW-3 should have been read in toto and not in isolation.

Accordingly, the appeal is allowed by answering the aforementioned questions of law in favour of the appellants and they are

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entitled to declaration that their father was named as Resham Singh @ Darshan Singh. In essence, the suit, vis-a-vis the correction of the record other than revenue record, is hereby decreed. Decree-sheet be prepared accordingly.

August 14, 2015
ramesh

(AMIT RAWAL)
JUDGE