

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.1078 of 2015 (O&M)
Date of Decision: July 22, 2015

Ranjit Singh

...Appellant

Versus

Daljit Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Avtar S. Khinda and Mr.Satinder Khanna, Advocates
 for the appellant.

INDERJIT SINGH, J.

Appellant-plaintiff Ranjit Singh has filed this regular second appeal against respondents-defendants Daljit Singh and Dalwinder Singh, challenging the impugned judgment and decree dated 18.08.2010 passed by learned Addl. Civil Judge (Senior Division) Sultanpur Lodhi, vide which the suit filed by the plaintiff-appellant for joint possession and permanent injunction was dismissed and also the judgment and decree dated 05.11.2014 passed by learned Addl. District Judge, Kapurthala, vide which the appeal filed by the appellant-plaintiff was dismissed.

The brief facts of the case are that plaintiff-appellant Ranjit Singh filed a suit against respondents-defendants Daljit Singh and Dalwinder Singh, for joint possession and permanent injunction, stating therein that Teja Singh, father of the parties, was owner of 6

marlas of land in abadi deh of village and 4 kanals was also in his name as owner being 'karta' of joint Hindu family and coparcenary property. The suit land was purchased by Teja Singh from the income of ancestral property and plaintiff was having rights of 1/4th share by birth in the suit property. After the death of Teja Singh, the plaintiff became owner of 1/3rd share out of the suit land. It is also the case of the plaintiff that Teja Singh was not of sound disposing mind and defendants by playing fraud, got prepared the sale deed dated 19.07.2004.

On the other hand, the case of the defendants is that suit is barred by time. Teja Singh was father of the parties and it was denied that he was owner of the suit property being 'karta' of joint Hindu family. The land measuring 2 kanals 11 marlas was purchased by defendants to the extent of 2/6 share; by Teja Singh to the extent of 1/6 share and Dalip Kaur wife of Ajit Singh to the extent of 3/5 share from Shaukin Singh for a sale consideration of ₹35,000/- vide sale deed dated 21.02.1983. Later on, Teja Singh sold 6 marlas to defendants for sale consideration of ₹1,20,000/- vide sale deed dated 19.07.2004. It is also the case of the defendants that plaintiff got married in the year 1976 and after his marriage, he got separated from his father and he was living separately. The defendants and Teja Singh had been living jointly. It is also the case of the defendants that defendants discharge entire liability of Teja Singh.

After framing the issues and after giving opportunity to the parties to lead evidence, learned Addl. Civil Judge (Senior Division)

Sultanpur Lodhi, dismissed the suit of the plaintiff vide judgment and decree dated 18.08.2010. Aggrieved from the above-said judgment and decree, appellant-plaintiff filed appeal and learned Addl. District Judge, Kapurthala, dismissed the appeal vide judgment and decree dated 05.11.2014.

Aggrieved from the above-said judgments and decrees, present regular second appeal has been filed by the appellant-plaintiff.

At the time of arguments, learned counsel for the appellant argued that the findings given by the Courts below are not as per law and evidence and are perverse and liable to be set aside.

I have heard learned counsel for the appellant and have gone through the record.

From the record, first of all, I find that both the Courts below have given concurrent findings. Nothing has been pointed as to how the findings are against the evidence or which evidence has been misread by the Courts below. Nothing has been pointed out as to which substantial question of law arises in this regular second appeal. The Courts below after appreciating the evidence, found that the suit property was separate property of Teja Singh, who has purchased the same along with defendants No.1 and 2 and then sold the property vide sale deed dated 19.07.2004. Teja Singh never challenged that sale deed being result of fraud or misrepresentation etc. Otherwise also, there is no cogent evidence on record to prove that the suit property is joint Hindu family ancestral property. Admittedly, the property in question has been purchased by Teja Singh. There is also

no cogent evidence on record to show that this property has been purchased from joint Hindu family funds. The plaintiff has only examined himself as PW-1 and has tendered into evidence copy of mutations Ex.P3 and P4, copy of Jamabandi Ex.P5 and transfer deeds Ex.P1 and P2. No other cogent evidence has been led to prove that suit property is ancestral joint Hindu family property. Further, I find that the defendants have led cogent evidence by proving revenue record, mutation, copies of sale deeds and transfer deeds Ex.D1 to D4.

The findings of fact given by the Courts below are correct, as per law and evidence. No evidence has been misread by the Courts below. In no way, the judgments and decrees passed by the Courts below can be held as perverse. The judgments and decrees passed by the Courts below are correct, as per law and evidence and do not require any interference from this Court and the same are upheld. No substantial question of law arises in this regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

July 22, 2015
Vgulati

(INDERJIT SINGH)
JUDGE