

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 1216 of 2015 (O&M)
Date of decision:- 14.07.2015

Dani Devi

...Appellant

Versus

Inder & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Jasbir Mor, Advocate
for the appellant.

RITU BAHRI J. (Oral)

Plaintiff-Appellant (for short 'the appellant') is in second appeal against the concurrent finding of fact recorded by both the Courts below whereby the suit of the appellant for setting aside orders dated 22.03.2010, 28.07.2010 and 10.08.2010 was dismissed.

Appellant purchased a land measuring 04 kanals 16 Marla from Sube Singh son of Shree Leelu i.e defendant-respondent No. 6, vide sale deed dated 20.01.2005 and in this context, a mutation bearing No. 1241 was also sanctioned and she had also purchased the land measuring 9 kanal 12 marlas from Chander Pal and Harpal sons of Sh. Leelu, vide sale deed vasika No. 1211 dated 22.11.2005 and in this context, a mutation bearing No. 1261 was sanctioned

on 22.03.2006. Thereafter, respondent Nos. 1 and 2 got the order dated 22.03.2010 passed illegally vide which naksha kha was sanctioned and have also got the order dated 28.07.2010 passed, vide which the direction regarding preparation of instrument of partition was given and had also got the order dated 10.08.2010 passed vide which the instrument of partition was prepared and Sanad Taksim was prepared on 10.08.2010 in a partition application. The land in question is still a joint between the parties because the appellant was not impleaded as party in the partition proceedings despite the fact that she was the necessary party being a co-sharer in the joint land. It was submitted that A.C. Grade II Narnaund did not follow the principles of natural justice while passing the impugned orders.

Both the Courts after going through the entire evidence led by the parties dismissed the suit of the appellant and gave a concurrent finding of fact that from the perusal of documents relied upon by both the parties, it is evident that not only the appellant and her husband as well as counsel appeared before A.C. Grade II and she even file written statement. As per Ex D1, respondent No. 5, husband of the appellant and Dani Devi filed written statement in partition proceedings, which bears joint thumb impression of appellant and her husband. As per Ex D2 and D3, the application filed by the appellant for being impleaded as

party in the partition proceedings was not opposed by the applicant. As per order dated 28.04.2008 (D4), the opposite counsel did not oppose the prayer of the appellant. From perusal of Ex D5 , Kuldeep Singh Bhatriwal appeared as an Advocate on behalf of the respondent and husband of appellant. As per order dated 29.06.2007, it is clarified that Dani Devi purchased 1/10th share of Sube Singh was represented by K.S. Bhatriwal. The husband of the appellant further gave a statement on 22.03.2010 that he has no objection in passing NAKSHA-BAY on behalf of respondents No. 1, 2, 4 and 5. Further statement was given by both counsel for parties on 03.07.2009 which is Ex D8 that they had no objection in proposed mode of partition. Further statement Ex D9 was given by counsel for the appellant and her husband that he had no objection in proposed mode of partition.

Thus, appellant was duly represented by her counsel as well her husband in the partition proceedings. She was also given opportunity to file written statement. As per Section 11 of the Punjab Land Revenue Act, application could be moved for partition of any estate. Notice to the effected party is to be given under Section 113 of the same Act and parties could be further added under Section 114 of the Act.

In view of the above, the judgments passed by

both the Courts calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

July 14, 2015
G Arora

(RITU BAHRI)
JUDGE