

In the High Court of Punjab and Haryana at Chandigarh

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CM No.3582-C of 2015 and
R.S.A. No.1258 of 2015 (O&M)

.....

Date of decision:22.4.2015

Jagdeep Singh

.....Appellant

v.

Jagmandip Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Parvez Chugh, Advocate for the appellant.

.....

Inderjit Singh, J.

CM No.3582-C of 2015:

For the reasons mentioned in the civil miscellaneous application, the delay of 21 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

R.S.A. No.1258 of 2015 (O&M):

This regular second appeal has been filed by Jagdeep Singh appellant-defendant against Jagmandip Singh, Dalip Singh and Deepinder Singh-respondents/plaintiffs aggrieved against the impugned judgment and decree dated 21.11.2013 passed by the learned Additional Civil Judge (Senior Division), Sri Muktsar Sahib and against the impugned judgment and decree dated 2.12.2014 passed by learned Additional District Judge, Sri

Muktsar Sahib passed in appeal.

The brief facts of the case are that Jagmandip Singh, Dalip Singh and Deepinder-plaintiffs (respondents herein) filed a suit against Jagdeep Singh-defendant (appellant herein) for separate possession by way of partition by metes and bounds of 2 Marlas 3 Sarsai i.e. 3/5th share of 4 Marlas bearing Khewat No.1256, Khatoni No.2390, Khasra No.785 (0-4) vide Jamabandi for the year 2005-06 as fully described in the head note of the plaint.

It is stated that plaintiff No.1 Jagmandip Singh purchased 7 Sarsai i.e. 1/5th share out of suit property measuring 4 Marlas vide sale deed dated 25.4.2011. Plaintiff No.2 and 3 purchased 1 Marla 5 Sarsai out of suit property measuring 4 Marlas vide sale deed dated 14.2.2011 and as such they are owners of 2 Marlas 3 Sarsai i.e. 3/5th share in the suit property and the rest of the suit property is owned by the defendant. The suit property is jointly owned by them as well as the defendant and no partition had ever taken place.

On the other hand, the case of the defendant in the written statement is of denial that the plaintiffs purchased property and are owners of 2 Marla 3 Sarsai i.e. 3/5th share in the suit property. He alleged that the plaintiffs have attached the wrong site plan and revenue record with regard to land in dispute. He averred that the suit property is owned and possessed by him. It is also the case of the defendant that his father Gurbaksh Singh was owner in possession of the suit land and he constructed one house on the said land and the defendant is residing with his parents in the suit land.

The defendant also relied upon the Will dated 1.6.2011 executed by his mother.

Both the parties produced the evidence. the learned Additional Civil Judge, (Senior Division), Sri Muktsar Sahib, vide impugned judgment dated 21.11.2013 passed preliminary decree in favour of the plaintiffs against the defendant. Aggrieved against the judgment and decree, the defendant filed appeal before the learned Additional District Judge, Sri Muktsar Sahib, which was dismissed vide judgment and decree dated 21.2.2014. Aggrieved against the impugned judgments and decrees passed by the Courts below, this regular second appeal has been filed.

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

From the record, I find that the findings recorded by both the Courts below are concurrent. The plaintiffs have placed on record copy of Jamabandi for the year 2005-06 Ex.P.1 and in the Jamabandi, the names of Rajan Bajaj, Ravinder Kumar, Jagdeep Singh and Gurcharan Kaur are reflected in the column of ownership. Rajan Bajaj is shown as owner of 1/5th share and Ravinder Kumar is also shown as owner of 1/5th share in the suit land. There is entry regarding mutation that Ravinder Kumar has sold his 1/5th share to Rajan Bajaj and as such Rajan Bajaj has become owner of 2/5th share in the suit land. There another entry is with regard to mutation vide which Rajan Bajaj had sold his 2/5th share in favour of plaintiff No.2 and 3 Dalip Singh and Deepinder Singh and there is another entry in the said Jamabandi with regard to mutation that Gurcharan Kaur has sold her

1/5th share in the suit land to plaintiff No.1 Jagmandip Singh.

Presumption of truth attaches to Jamabandi. There is no evidence led by the defendant to rebut the presumption. As per the revenue record, the plaintiffs are owners of 3/5th share in the suit land and the defendant is owner of remaining 2/5th share. There is no cogent evidence on record produced by the defendant to show that he is exclusive owner of the property in dispute. No document has been produced on record to prove the exclusive ownership by the defendant. The execution of the Will in favour of the defendant by his mother cannot prove the exclusive ownership. The findings given by the Courts below are correct and as per law and do not require any interference from this Court. Otherwise also, no substantial question of law arises in this regular second appeal.

Finding no merit in the regular second appeal, the same is dismissed.

April 22, 2015.

hsp

(Inderjit Singh)
Judge