

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

RSA No.3487 OF 2015 (O&M)
DATE OF DECISION : 11th SEPTEMBER, 2015

Maghar Singh through LRs & others

.... Appellants

Versus

Manjit Kaur & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Varun Kumar, Advocate for the appellant.

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SURINDER GUPTA, J. (ORAL)

1. Challenging the gift deed No.1735 dated 25.11.1969, executed by Inder Singh in favour of Sukhdev Singh husband of defendant No.1- Manjit Kaur, plaintiff-Maghar Singh since deceased now represented by his legal heir, filed civil suit No.117 of 06.05.2011 seeking the relief of declaration of their title over the suit land measuring 31 bighas 10 biswas situated in village Barri, Tehsil Dhuri as fully described in the headnote of the plaint. The suit was dismissed and appeal filed by plaintiff also met the same fate.

2. The pleas taken by the plaintiff that he is son of Inder Singh was discarded by the Additional Civil Judge (Senior Division), Dhuri with observation as follows:

- i) The plaintiff claimed to be son of Inder Singh and Chand Kaur while as per the death certificate produced and proved on record Balwant Kaur was wife of Inder Singh.

- ii) No evidence was produced by the plaintiff to prove his relationship with Inder Singh.
- iii) It was also contended that the suit property was joint Hindu family coparcenary property but no evidence in this regard was placed on record.
- iv) The plaintiff had taken the plea that the gift deed dated 25.11.1969 was result of fraud, misrepresentation, but failed to adduce any evidence in support of his plea while on the other hand the gift deed being more than 30 years old document, was per se admissible.
- v) The mutation on the basis of gift deed was also sanctioned immediately thereafter, but never challenged by the plaintiff.

3. Learned counsel for the appellant has argued that the plaintiff had supplied the copy of his ration card and voter card where he is recorded as son of Inder Singh, but on perusal of the lower court record it transpired that the same had not been produced and proved on record by his counsel, thereby an adverse observation was made against him that he has not been able to prove his relationship with Inder Singh. An application has been filed under Order 41 Rule 27 CPC seeking permission to lead additional evidence to prove this fact.

4. On perusal of the paper book and judgment of the lower court I find that even the allowing of application under Order 41 Rule 27 CPC, will not serve any purpose. Even if it be believed that Maghar Singh was the son of Inder Singh still in the absence of any proof that the gift deed

executed by Inder Singh in the year 1969, was the result of fraud, misrepresentation or is not legal document, the relief as claimed by the plaintiff cannot be allowed. Civil suit was filed by the plaintiff in May, 2011 i.e. after a period of about 41/42 years after the execution of the gift deed by Inder Singh. It cannot be believed that the plaintiff being son of Inder Singh remained silent for such a long period of more than 4 decades and did not lay his claim over the property left by his father. It is evident that the suit property has been sold by wife of Sukhdev Singh i.e. defendant No.1 to defendants No.2 to 4. It is at this juncture that the plaintiffs has swung into action and challenged the gift deed dated 25.11.1969. On the face of it the suit appears to have been filed by the plaintiff-appellant for ulterior motives and is a clear misuse of process of law and court.

5. In view of the above discussion, I find no legal or factual infirmity in the judgment of the courts below calling for any interference. No substantial question of law requiring determination arises in this appeal, which has no merits.

6. Dismissed.

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In view of what has been discussed above, the application has no merit. Dismissed.

11th September, 2015
'raj'

(SURINDER GUPTA)
JUDGE