

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1050 of 2014 (O&M)
Date of Decision.28.08.2015

Jagdish and others

.....Appellants

Versus

Smt. Shanti and others

.....Respondents

Present: None for the appellants.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. There is no representation for the appellants. After the appeal was filed in 2014, there has been persistent absence on the part of the appellant and he has been only applying for adjournment at every time. There is no virtue in the case for merely making applications for adjournment and absenting himself without any justification. Since the issue of whether there exists a question of law is Court's duty to frame, I have undertaken the exercise of going through the file.

2. The suit was filed by Shanti and Sarabati contending that the mutation effected with reference to inheritance to the property of Matu was wrongly done and the inclusion of defendants' predecessors Ram Gopal as having 1/3rd share was erroneous. The mutation had been made in the year 1961 itself, but the suit was filed only on 03.11.2000. There was the contention that the suit was barred by limitation. There were other contentions that the plaintiffs were themselves owners of the property as heirs to Matu and the claim of ownership by the

defendants was erroneous. The trial Court decreed the suit after setting out the genealogy between the parties. The admitted case was that the plaintiffs were the sister's daughters of Matu. Matu died issueless before marriage. Matu's father was Ganga Dutt and Ganga Dutt's brother was Deba. Deba's son was Ram Gopal. Ram Gopal's lineal descendants were the defendants. It would be obvious that the plaintiffs as the sister's children are the nearer heirs in the Schedule to Section 8 of the Hindu Succession Act while the defendants were Matu's father's brother's grand children. In a claim to succession by distant agnates of Matu and the sister's children, Schedule Part II prefers the plaintiffs to the distant agnates. The Court found that the mutation cannot decide the rights of parties and it could only be evidence of title and finding that the plaintiffs had made out a case that they were nearer heirs, granted the decree. This judgment was affirmed by the Appellate Court.

3. There is no point at all for consideration in favour of the defendants. The suit had been rightly decreed by the two Courts below. There is no substantial question of law for consideration in the second appeal. The second appeal is dismissed.

(K. KANNAN)
JUDGE

August 28, 2015
Pankaj*