

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

RSA No.3446 of 2014 (O&M)

Date of decision : 09.02.2015

Jagsir Kaur

...Appellant

Versus

Sukhmander Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Pawan Malik, Advocate
for the appellant.

AMIT RAWAL, J. (Oral)

This is a Regular Second Appeal at the instance of the appellant-plaintiff is directed against the judgment and decree dated 06.12.2010 of the trial Court, whereby prayer that the collusive decree dated 16.10.1993 passed by Sub Judge, Abohar in Civil Suit No.174-1 dated 02.02.1993 in respect of land measuring 186 kanals 17 marlas and the mutation being illegal, null and void and not binding upon the rights of the appellant-plaintiff with consequential relief of permanent injunction restraining the respondents-defendants from alienating the land in any manner has been dismissed the appeal filed against therein has also been dismissed.

Mr. Pawan Malik, learned counsel appearing on behalf of the appellant, in support of his grounds of appeal, has submitted that both the Courts below have committed illegality and perversity in dismissing the suit as the property at the hands of Sadhu Singh was ancestral and, therefore, he could not have suffered collusive decree dated 16.10.1993 in favour of defendant Nos.1 and 2 and the said decree was required to be registered.

I am afraid the aforementioned argument sans merit for the reasons that appellant-plaintiff has failed to bring on record any oral and documentary evidence, except the pleadings of the previous suit to show that land at the hands of Sadhu Singh was ancestral. Mere assertion in the suit that the land was ancestral would not make the nature and the character of the property as ancestral.

Appellant-plaintiff was required to bring excerpt from the revenue record to show that the land at the hands of his father had devolved from three generation. Having not done so, both the Courts below have rightly held that property at the hands of Sadhu Singh was not ancestral.

The second contention that collusive decree required registration, does not have any substance as defendant Nos.1 and 2 are the none but the sons of defendant No.3, who had suffered collusive decree in 1993. Defendant Nos.1 and 2, being sons, would have a pre-existing right in the property owned by Sadhu Singh, therefore, the decree does not require any registration.

Both the Courts below have rendered a finding of fact and law, based on the appreciation of the oral and documentary evidence.

No fault can be found with the findings rendered by both the Courts below.

No substantial question of law arises for the adjudication of the present appeal.

Accordingly, the present appeal is dismissed.

09.02.2015

pawan

**(AMIT RAWAL)
JUDGE**