

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

**Regular Second Appeal No.3510 of 2014 (O&M)
Date of Decision: October 20, 2015.**

Anil Kumar

.....APPELLANT(s).

VERSUS

Sarti and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.K. Yadav, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Anil Kumar and Sunil Kumar plaintiffs filed suit seeking the relief of declaration that the decree dated 05.02.1991 passed in civil suit No.1332/1990 titled “Ram Niwas Vs. Mangtu” was wrong, against law, null and void and not binding on the rights of the plaintiffs. They also claimed 1/4th share in the suit property by birth and consequent entry in the revenue record. The relief was also sought for permanent injunction to restrain defendants No.1 to 3 from interfering in the peaceful possession of the plaintiffs and in the alternative 1/4th share of the suit land.

2. The case as set up by the plaintiffs, in brief, is that the suit land was joint Hindu family coparcenary property in which the plaintiffs have

1/4th share. A decree was suffered by Mangtu, grand father of plaintiffs on the basis of family settlement in favour of defendants Ram Niwas and Rajinder. In fact, no family settlement had ever taken place and the decree was against law and facts.

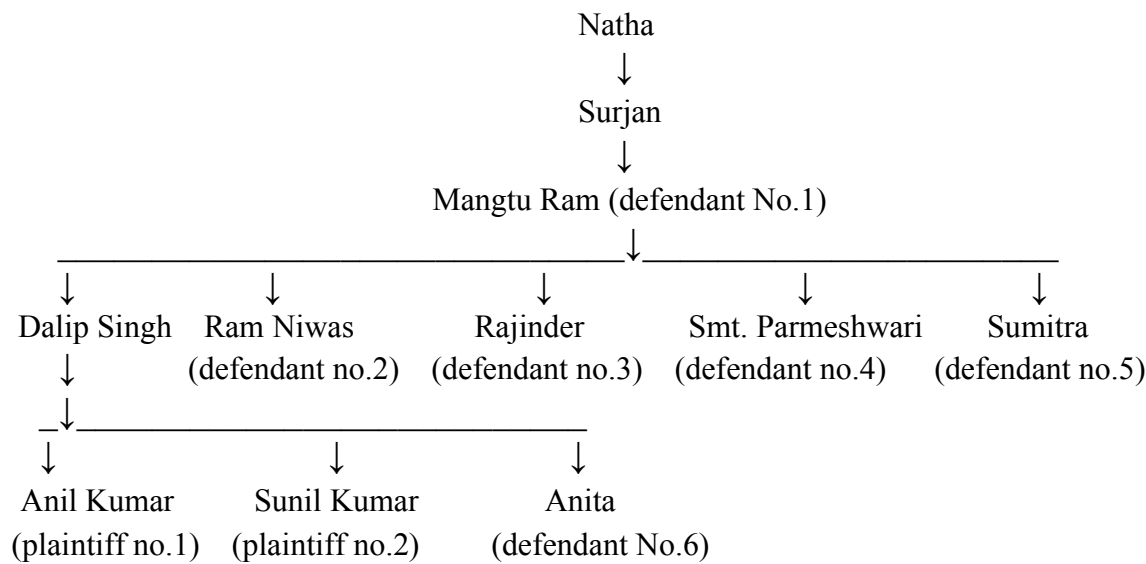
3. The defendants contested the claim of the plaintiffs inter-alia pleading that suit land was self-acquired property of defendant No.1. Plaintiffs have no right and share in the suit land. Decree was based on a family settlement and suffers from no legal infirmity.

4. The suit was dismissed by Additional Civil Judge (Senior Division), Rewari. The plea of plaintiffs that the suit property was joint Hindu family coparcenary property, was discarded with the observation that plaintiffs have failed to prove this plea. The suit property was recorded in the name of Mangtu Ram, grand father of plaintiffs. The plaintiffs have raised plea that in fact Surjan father of Mangtu purchased this property in the name of Mangtu Ram from the income of joint Hindu family but could not adduce any evidence in support of this plea. As per the sale deed in favour of defendant No.1, it was held to be self-acquired property of Mangtu.

5. Anil Kumar, one of the plaintiffs preferred appeal against the judgment and decree of the lower Court, which was also dismissed by Additional District judge, Rewari.

6. I have heard learned counsel for the parties and have gone through the paper book and the judgments of the Courts below with his assistance.

7. Following pedigree table will help in understanding the relationship of the parties to the lis:-



8. Learned counsel for the appellant has argued that Mangtu had three sons and two daughters. The suit property was purchased by Surjan in the name of Mangtu Ram, as such, it was ancestral property in which Dalip Singh, father of plaintiffs had 1/4th share. Dalip Singh was missing for the last more than 12 years, as such, presumption of his death accrues and the plaintiffs have inherited the share of Dalip Singh in the suit property.

9. The plea of the plaintiffs that the suit property was purchased by Surjan Singh in the name of Mangtu Ram was not proved by adducing any evidence on record and in the absence of any cogent and convincing evidence that the suit property was purchased by Surjan in the name of Mangtu from the income of joint Hindu family, the Courts below have committed no error of law or fact while observing that Mangtu Ram was exclusive owner of the same and the plaintiffs have no right, title or interest therein, as such, lacks any locus standi to file the instant suit.

10. Mere assertion of the plaintiffs that the suit land was purchased by Surjan in the name of his son Mangtu, defendant No.1 in the absence of any cogent and convincing evidence has been rightly rejected by the courts

below calling for no interference in this appeal as the plaintiffs have failed to prove their locus standi to challenge the decree suffered by Mangtu and that they have any right, title or interest in the suit property.

11. Both the Court below have committed no error of law or facts while dismissing the suit filed by the plaintiffs.

12. No question of law what to talk of substantial question of law arises for determination in this appeal, which has no merits.

13. Dismissed.

October 20, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE