

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

R.S.A No. 4763 of 2014 (O&M)

Date of decision:- 19.05.2015

Jagjit Singh

...Appellant

Versus

Charanjit Singh Sekhon & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.S. Salar, Advocate
for the appellant.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

C.M. No. 11185-86-C of 2015

For the reasons mentioned in the application, delay of 06 days in re-filing and 13 days in filing the present appeal is condoned.

The applications stand disposed of accordingly.

R.S.A No. 4763 of 2014

The present regular second appeal is directed against the judgment and decree dated 12.03.2014 passed by Addl. District Judge, Sangrur whereby the judgment and decree dated 12.08.2008 passed by the Addl. Civil Judge (Sr Divn.) Sangrur was upheld whereby the suit of the plaintiff/appellant (herein after to be referred as 'the

appellant') was dismissed.

Brief facts of the case put forth by the appellant is that Chattar Singh was the owner in possession of the suit land. After the death of Chattar Singh, his son Jang Singh succeeded to the estate of Chattar Singh, according to law applicable at that time. Thereafter, Jang Singh (father of the appellant) and respondents became owner in possession of the suit land. Parties are Hindu Jat Sikhs and are governed by Mitakshra school of Hindu Law. Jang Singh constituted Joint Hindu family and coparcenary with the appellant and defendant No. 1 and all of them were members of the said Hindu family and coparcenary, of which Jang Singh was karta. Jang Singh died on 11.09.1998. During the life time of Jang Singh, respondent No. 1 alleging collusive judgment and decree in civil suit No. 30 of 16.01.1989, decided on 22.08.1989 and got the mutation of the suit land sanctioned in his favour but neither Jang Singh was summoned nor he appeared in the said case. Jang Singh was not competent to suffer any decree which amounts to transfer in favour of respondents regarding the suit land which is Joint Hindu Family and coparcenary property. Even the averments of family settlement and those of adverse possession of the suit land made in Civil Suit No. 30 of 16.01.1989 are imaginary. Except for the bald statement, no evidence

was led by the appellant to show that the judgment and decree dated 22.08.1989 is a forged and fabricated document. Reference was made to Order 6 Rule 4 CPC, which reads as under:-

Particulars to be given where necessary.- In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, willful default, or undue influence, and in all other cases in which particulars may be necessary beyond such as are exemplified in the forms aforesaid, particulars (with date and items if necessary) shall be stated in the pleading.

The respondents on the other hand examined D.W.3 Sh. R.K. Paul, Advocate who has stated on oath that in civil suit No. 30 of 16.01.1989, he was an Advocate of Jang Singh. He also proved on record the power of attorney executed by Jang Singh in his favour which is Ex D21. He also submitted the written statement on behalf of Jang Singh and certified copy of written statement is Ex D22. Statement of Jang Singh is Ex D23. He also proved on record the copy of the judgment as Ex D24 and copy of decree sheet as Ex D25 meaning thereby Jang Singh himself appeared in the Court in that suit and admitted the claim of respondent No. 1 and on the basis of which the judgment and decree dated 22.08.1989 was passed in favour of

respondent No. 1. So no forgery was committed by respondent No. 1, as Jang Singh had not challenged the said judgment and decree during his life time and died in the year 1998. Further, the judgment and decree was not challenged by the present appellant.

Another suit i.e Civil suit No. 74 of 26.03.1981, Jagjit Singh and Charan Singh filed a suit against Jang Singh, in which it is pleaded by the parties that about 20 years ago, the suit land by way of family settlement was given to both the brothers in equal shares and Jang Singh kept with him his house, entire cash and admitted Jagjit Singh and Charanjit Singh are owners of the same. The suit was decreed by the Court of Senior Sub Judge, Sangrur vide judgment dated 07.05.1981 and decree is Ex D4 on the file. Thus, the joint properties were already partitioned by Jang Singh during his lifetime and due to which, he suffered a decree regarding 100 kanals 16 marlas of land in favour of his sons Jagjit Singh and Charanjit Singh. Thus the property in dispute cannot be said to be Joint Hindu Family and coparcenary property. Further as per Ex D24 and Ex D25, Charanjit Singh had filed a suit on the basis of family settlement against his father Jang Singh and on the basis of family settlement, his father transferred the suit land in favour of Charanjit Singh. It is a settled proposition of law that consent decree between family members on the basis of family

settlement qua their immovable property does not require compulsory registration as held by this Court in a case of ***Hari Singh vs. Gurcharan Singh and others, 2003(3) Civil Court Cases 183 (P&H)***

The judgment passed by both the Courts below, calls for no interference by this Court. No substantial question of law arises for adjudication by this Court.

Accordingly, appeal is dismissed.

May 19, 2015

G Arora

(***RITU BAHRI***)
JUDGE