

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

**Regular Second Appeal No.5679 of 2014 (O&M)
Date of decision : 25.05.2015**

Sat Pal Singh & another ...Appellants

versus

Jagdev Singh & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shakti Bhardwaj, Advocate
for the appellants.

Mr. Sandeep Khunger, Advocate
for respondents No.1 and 2/caveator.

RITU BAHRI, J (Oral)

CM Nos.13482-81-C of 2014

There is a delay of 21 in filing and 596 days in re-filing
the appeal.

For the reasons mentioned in the applications, the same
are allowed and the delay of 21 days in filing and 596 days in re-filing
the appeal is condoned.

CMs stand disposed of.

RSA No.5679 of 2014

The appellants/plaintiffs have come up in regular second
appeal against the judgments and decrees passed by the trial Court and
the lower appellate Court whereby their suit for declaration was
dismissed.

The plaintiffs had challenged the transfer deed dated 12.07.2005 which was executed by defendant No.1 father in favour of defendants No.2 and 3 on the ground that the suit property was ancestral in nature. The plaintiffs being sons had a right in the said property by birth. No evidence was led by the plaintiffs to prove that the land was ancestral property or he had inherited the same from his father. The mutation No.2043 Ex.P3 pertained to the order of transfer of land passed by S.O.C. Ferozepur on 26.09.1990 in appeal No.467. This mutation did not help the case of the plaintiff as it was not a case of inheritance. Moreover the trial Court had recorded that plaintiff Sat Pal had admitted in his cross-examination that he is residing separately from his father and brother since 1988-89 and the plaintiff had also admitted that about 3 ½ acres of land stands in his name as well as in the name of Baltej Singh. He endorsed the fact that the aforesaid 3 ½ killas were purchased by all the four brothers jointly from Iqbal Singh and their father had paid sale consideration. Hence, the plea of joint hindu family was not available to the plaintiffs. The Co-ordinate Bench of this Court in case titled as **Babu Ram Vs. Kundan and others 1997 (1) CCC 437** has held that once the members of the joint hindu family started residing separately from each other and they started cultivating the land independently without interference from others in different villages, there was a total disruption of the joint family and the property no more could remain joint between the parties.

In the absence of any evidence that the property was ancestral, the suit of the plaintiffs was rightly dismissed by both the Courts below. No substantial question of law for consideration has arisen in this appeal.

Dismissed.

25.05.2015
Vinay

(RITU BAHRI)
JUDGE