

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

RSA No. 614 of 2014 (O&M)

Date of decision : 13.7.2015

Inderjit Kaur

... Appellant

VS

Balwinder Kaur

... Respondent

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S. S. Swaich, Advocate, for the appellant.

Rajesh Bindal, J.

The defendant is before this Court against the concurrent findings of fact recorded by both the Courts below whereby the suit filed by the respondent-plaintiff for separate possession of half share in the suit property was decreed.

It was claimed in the suit that the parties to the dispute are real sisters. The property was originally owned by Ajit Singh, their father, who died in the year 1980. The appellant, who was having some matrimonial dispute, had been living at the parental house. The respondent was married in the year 1983. As nothing was paid to the respondent-plaintiff out of the income of the suit property, the suit for separate possession was filed. The stand, inter-alia, sought to be taken by the appellant was that in January, 1991, there was an oral family arrangement made by Pritam Kaur, mother of the parties to the dispute. In terms thereof, the share of the mother in the property, which was 1/3rd after the death of father of the parties to the suit, was given to the appellant-defendant as she was taking care of her. However, in the evidence on record, it was established that after the death of Pritam Kaur, mutation of inheritance was sanctioned in favour of both the daughters, namely, the parties to the dispute on 27.3.2002 (Ex. P5). Though oral evidence was sought to be led by the appellant-defendant claiming that there was oral family settlement in the year 1991, but nothing has come on record, as to why, even after the death of mother, the same was not

produced before the revenue authorities at the time of sanction of mutation of inheritance after the death of Pritam Kaur. Had there been any oral family settlement, the appellant- defendant would have certainly pleaded the same before the revenue authorities at the time of sanction of mutation of inheritance.

Once the appellant had not been able to prove that there was any oral family settlement vide which 1/3rd share of the mother was given to her after death of her mother, there is no illegality in the judgments and decrees of both the courts below whereby the suit filed by the respondent-plaintiff claiming half share in the property left by their mother was decreed.

No substantial question of law arises. The appeal is accordingly dismissed.

13.7.2015
vs

(Rajesh Bindal)
Judge