

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.6359 of 2014 (O&M)
Date of Decision: April 28, 2015

Gobind Ram

...Appellant

Versus

Parmal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sushil Kamboj, Advocate
for the appellant.

INDERJIT SINGH, J.

Appellant-plaintiff Gobind Ram has filed this regular second appeal against Parmal Singh, Tara Rani, Parbhi Devi, Bohti Devi and Som Devi respondents-defendants challenging the judgment and decree dated 16.09.2011 passed by learned Addl. Civil Judge (Senior Division), Yamuna Nagar at Jagadhri, vide which the suit for declaration filed by the appellant-plaintiff was dismissed and also judgment and decree dated 02.08.2014 passed by learned Addl. District Judge, Yamuna Nagar at Jagadhri, vide which appeal filed by the appellant-plaintiff, was dismissed.

The brief facts of the case are that Gobind Ram plaintiff-appellant filed a suit against Parmal Singh etc. defendants-respondents for declaration with consequential relief of permanent injunction by stating that previously Joti Ram, father of the parties was

owner of the land situated in village Chamion Sub Tehsil Raduar, District Yamuna Nagar, which was inherited by him from his father Mussaddi. The said land was sold by Joti Ram and the sale consideration was utilized by him for purchasing the suit land as fully described in the head note. It is further stated that the suit land is ancestral property of the parties and plaintiff acquired right, title and interest by birth. The suit land was in the name of Joti Ram but the parties were cultivating the same jointly and also residing jointly. After the death of Joti Ram, plaintiff came to know that defendant No.1 Parmal Singh had got transferred the suit land in his favour on the basis of civil court decree dated 30.11.1988 passed by the civil Court. It is further stated that the judgment and decree dated 30.11.1988 and mutation on the basis of above-said judgment and decree, are null and void.

On the other hand, the case of defendant No.1 Parmal Singh is that plaintiff has separated himself from rest of the family from the very beginning after his marriage as he had been disturbing the family from the time of his marriage. The plaintiff was separated after giving his due share in the property. It is further stated that the plaintiff started dispute regarding tractor, tubewell, agricultural implements, cow and buffaloes and for settling the dispute, a settlement took place in presence of witnesses and plaintiff received ₹18,000/- as share of these articles. It is also stated that defendant No.1 Parmal Singh is owner in possession of the suit property by virtue of Will, which is binding upon the plaintiff. It is further stated

that family settlement took place between defendants and Joti Ram in May, 1988 vide which Joti Ram gave his share in the suit land to defendant No.1 Parmal Singh by civil court decree dated 30.11.1988. Plaintiff never objected the same and said decree was registered in the office of Sub Registrar, Jagadhri on 17.01.1989 and decree dated 30.11.1988 is legal and valid. It is also stated that suit property is not ancestral property.

Learned Addl. Civil Judge (Senior Division) Yamuna Nagar at Jagadhri, by appreciating the evidence, which is produced by both the parties, dismissed the suit of the plaintiff vide judgment and decree dated 16.09.2011. An appeal was filed by the plaintiff-appellant, which was also dismissed vide judgment and decree dated 02.08.2014 passed by learned Addl. District Judge, Yamuna Nagar at Jagadhri.

Aggrieved from the above-said judgments and decrees passed by the Courts below, present regular second appeal has been filed.

I have heard learned counsel for the appellants and have gone through the record.

At the time of arguments, learned counsel for the appellant has only argued that the findings of fact given by the Courts below are incorrect. Learned counsel for the appellant has not shown any substantial question of law which arises in the present appeal.

From the record, I find that there is no cogent evidence on record to prove the property in dispute as ancestral property. There is

also nothing on the record to show that civil court judgment and decree which is registered document is forged or fabricated or null and void document. Joti Ram has not challenged the judgment and decree dated 30.11.1988, though, he is stated to have died in the year 2004. There is also a Will executed by Joti Ram in favour of defendant No.1 Parmal Singh. There is no evidence on record to show that Joti Ram inherited the property from Mussaddi. Defendant Parmal Singh has claimed that property was sold by Mussaddi, father of Joti Ram during his life time and suit property was purchased by Joti Ram and as such, the same was his self-acquired property. Otherwise also, as per evidence on record, the plaintiff-appellant had already been separated. Therefore, question of joint Hindu family or coparcener, does not arise. As per the Jamabandi for the year 2002-03 Ex.D8, Parmal Singh was owner in possession of $\frac{3}{4}$ share whereas Gobind Ram was having $\frac{1}{4}$ share in the total land. Plaintiff in cross-examination also admitted that he sold $1\frac{1}{2}$ acres of land to some Deena Nath and he has also sold some land to Kharbanda owner of factory about six months back. This fact also shows that the plaintiff had already been separated by Joti Ram during his lifetime. Defendant Parmal Singh has also proved the settlement vide which the plaintiff received cash amount of ₹18,000/- as share of tractor and other agricultural implements etc.

Keeping in view the findings given by the Courts below, I find that these findings have been correctly given by appreciating the evidence in right perspective. The findings are as per evidence and

law. The findings of the Courts below do not require any interference from this court and the same are upheld. No substantial question of law arises in the present regular second appeal.

Therefore, finding no merit in the present regular second appeal, the same is dismissed.

April 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE