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

**RSA No.986 of 2014 (O&M)
Date of Decision: 15.10.2015**

VEER KAUR

.....Appellant

Vs

DARSHAN KAUR AND ANRS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Karanjit Singh, Advocate
for the appellant.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.(Oral)

[1]. Plaintiff No.2 is in second appeal in a suit for declaration to the effect that she along with other plaintiffs are co-sharers in possession to the extent of 16 *Kanals* of land. Mutation in favour of Manohar Singh to the extent of 1/3rd share is claimed to be illegal, null and void.

[2]. Earlier Karam Singh husband of Smt. Sant Kaur (predecessor of plaintiffs) was the owner of suit land. Mutation was sanctioned in favour Sant Kaur and that was a contested mutation. In an appeal filed by Shebeg Singh before the Collector a compromise was effected on 15.10.1970. According to said compromise mutation was agreed to be sanctioned on the basis of

compromise. Resultantly 16 *Kanals* of land was given by Shabeg Singh in favour of Sant Kaur and that was duly effected in the revenue record.

[3]. Plaintiffs are natural heirs of Sant Kaur, but in the revenue record name of Manohar Singh was shown along with them to the extent of 1/3rd share which is the subject matter of challenge in the suit.

[4]. It has been claimed that Manohar Singh had already died at the time of entering and sanctioning of said mutation. Plaintiffs have admitted mutation in question to be correct. Both the Courts below have taken note of the fact that the plaintiffs have based their claim being daughter of Sant Kaur, but mutation No.1622 regarding the estate of Sant Kaur has already been sanctioned in favour of plaintiffs and Manohar Singh and said mutation has not been produced on record, nor has been challenged by the plaintiffs. Without getting the said mutation set aside, no relief of injunction can be given to the plaintiffs.

[5]. Both the Courts have also noted that Sant Kaur had already sold her share and, therefore, without challenging the sale deed dated 24.03.1977 and consequent mutation No.1252 of Dalip Singh and subsequent vendees namely Waryam Singh and Sukhpal Singh, the simpliciter suit for declaration is not maintainable.

[6]. Execution of sale deed dated 24.03.1977 executed by Sant Kaur to the extent of selling half share out of land

measuring 35 *Kanals* 7 *Marlas* has been conspicuously missing in the pleadings even though the defendants have proved on record the Will alleged to have been executed by Manohar Singh in favour of defendants, but the said Will is never in dispute as the plaintiffs have never denied the factum of defendants to inherit property left by aforesaid Manohar Singh. Therefore, appellate Court thought it appropriate not to base its conclusion on the aforesaid Will.

[7]. Both the Courts have appreciated the facts appearing on record. Re-appreciation of the same is not permitted in Regular Second Appeal.

[8]. No law point worth consideration arise in this appeal as the entire controversy is based on factual matrix which has been rightly appreciated by the Courts below. Accordingly, the present appeal is dismissed.

October 15, 2015

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(RAJ MOHAN SINGH)
JUDGE