

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

RSA No.390 of 1988 (O&M)
Date of decision : 02.03.2016

Inderjit Singh

...Appellant

Versus

Ranjit Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Munish Gupta, Advocate for the appellant.

Mr. Ajay Jain, Advocate for the respondents.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the dismissal of the suit claiming possession of the land measuring 5 bighas 18 biswas bearing khasra Nos.115(2-0), 117(3-11) situated in Village Ram Nagar, Sania, Tehsil Rajpura, on the premise that he is owner of the suit land as the same is his ancestral land.

Mr. Munish Gupta, learned counsel appearing on behalf of appellant submits that defendant No.3-Hardayal Singh father of the appellant constituted a joint hindu family property. The property at his hand was ancestral. The land measuring 41 bighas situated in Village Ram Nagar,

fell to the share of plaintiff including suit land. Plaintiff instituted a suit against the defendant No.2 which resulted into passing of the decree dated 05.11.1977 in respect of land measuring 41 bighas and since then plaintiff has been enjoying the possession of the suit land. The aforementioned decree was challenged by filing two suits, which was set aside to the extent of 34 bighas and 2 biswas. Decree in respect of suit land, remain undisturbed and the factum of the ownership in favour of the plaintiff was upheld. Despite the same, Hardayal sold the suit land to the defendant Nos.1 and 2 through sale deeds which was executed on 14.05.1981 and 04.08.1981. Both the Courts below have committed illegality and perversity in declining the relief for the reasons that the appellant-plaintiff has acquired the right of ownership by virtue of decree vis-a-vis remaining piece of land, Hardayal Singh could not have passed the title as he did not have better title. Father took the advantage of no reference/incorporation of decree in the revenue record and thus urges to this Court to formulate the following substantial questions of law:-

1. Whether the judgment and decree of both the Courts below suffers from illegality and perversity?
2. Whether the appellant-plaintiff had become the owner of the suit land by virtue of the judgment and decree dated 05.11.1977?
3. Whether the property at the hands of Gurcharan Singh was ancestral?

Mr. Ajay Jain, learned counsel appearing on behalf of respondent submits that suit for possession ex facie was not maintainable as

there was no challenge to the aforementioned sale deed. Even otherwise, the property at the hands of Hardayal Singh has not been proved to be ancestral as he inherited from his father Gurcharan Singh, in essence, plaintiff is not the fourth generation in lineage which would entitle him to seek the claim in the property being ancestral. Revenue record do not reflect any ownership in favour of plaintiff despite passing of the decree aforementioned, in essence, decree was not notified to him by authorities and thus prays for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and of the view that appeal deserved to be dismissed for the reasons that suit suffered from inherent defect, in essence, no declaration vis-a-vis the sale deed aforementioned has been sought. Possession had been claimed on the ground that property at the hands of Hardayal Singh is not ancestral whereas excerpts/pedigree table has not been produced on record in this regard. Thus, there is no compliance of High Court Rules and Orders, much less, ratio decidendi culled out in *Banta Singh and ors. Vs. Phuman Singh and ors. 1972 PLJ 275*. The vendees are bonafide purchasers of land for a valuable consideration.

Keeping in view the aforementioned facts, there is no merit in the appeal, much less, no interference is warranted. Questions of law as noticed above are answered against the appellant-plaintiff and in favour of respondent-defendant.

Appeal stands dismissed.

02.03.2016

pawan

**(AMIT RAWAL)
JUDGE**