IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2492 of 2010 (O&M)
Date of decision: March 11, 2016.

Mohinder Kaur and others

... **Appellants**

v.

Shankar Singh and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Rajan Bansal, Advocate for the appellants.

Mr. K.S. Rana, Advocate for
Mr. J.S. Brar, Advocate for respondent No.2.

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

Amit Rawal, J. (Oral):

Appellant-defendants are aggrieved of the judgments and decrees dated 23.2.2006 and 11.2.2010 passed by the two courts below whereby plaintiff No.1 has been declared to be owner of 1/3rd share and plaintiffs No.2 and 3 and defendants No.13 to 17 have been declared to be owners to the extent of 1/3rd share in the land measuring 46 kanals 15 marlas and accordingly the jamabandis have been ordered to be corrected.

Mr. Rajan Bansal, learned counsel appearing for the appellants, defendants No.3, 4 and 5, submits that Nathu Singh had three sons, namely, Santa Singh, Thaman Singh and Inder Singh. Thaman Singh had one son and four daughters, whereas, Inder Singh had one son and four daughters. Name of son of Thaman Singh is Sukhdev Singh whereas the name of son of Inder Singh is Mukhtiar Singh. Santa Singh died unmarried and issueless on 21.7.1958. Earlier, on the basis of some Will, inheritance of Santa Singh was mutated in favour of Nand Kaur, daughter of Nathu Singh, being sister of Santa Singh and she accordingly became owner to the extent of 1/3rd share and the said share was transferred in her name. That in view of Section 44 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, the suit of the plaintiffs was not maintainable. Earlier a suit for correction in the jamabandis for the year 1961-62 was filed, which were prepared at the time of consolidation proceedings and subsequent jamabandis. The remedy was under the revenue authorities and not with the courts. Both the courts below have erroneously negated the aforementioned objection and held that the suit was maintainable. Subsequently, the suit was filed in the year 2000 whereas consolidation was effected in the year 1966 as the same was barred by limitation. According to him, the substantial questions of law as culled out in the grounds of appeal arise for determination.

Mr. K.S. Rana, learned counsel appearing for respondent No.2/plaintiff in the original suit, submits that the civil court had jurisdiction and the plea of correction of jamabandis had rightly been accepted and the aforementioned objection was rejected by both the courts below. The concurrent findings of fact cannot be interfered unless and until substantial questions of law arise for determination. In this case, no substantial question of law arises for consideration of this Court.

I have heard learned counsel for the parties and perused the records.

There is no merit in the aforementioned contentions for the reasons that as per the jamabandi, the share of Nand Kaur was described as 1/4th share in stead of 1/3rd share, and the courts below, after noticing the suit and relief clause of the suit whereby the plaintiffs had sought correction in the jamabandis and not claimed 1/3rd share each, had rightly decreed the suit. Section 44 of the 1948 Act would not come into play. The revenue record Ex.P4 to P.10 are jamabandi commencing from 1968 to 1999 which reveal the share of successors of Thaman Singh, Santa Singh and Inder Singh. At the time of preparation of jamabandi for the year 1961-62, instead of mentioning share of Mukhtiar Singh as owner to the extent of 1/3rd share, it has wrongly been shown as owner to the extent of 4/36 share and Gurdial Kaur, Finno, Kailo, Jeeto and Balbir Kaur daughters of Inder Singh were to the extent of 5/36 share. Sham Kaur widow of Thaman was recorded owner to the extent of 1/21 share. Dhan Kaur, Bhan Kaur, Ram Kaur, Mukhtiar Kaur, Mohinder Kaurs daughters of Sukhdev Singh son of Thman Singh to the extent of 19/42 share and so on and so forth. The entries in the aforementioned jamabandis, according to the plaintiffs, were wrong for the reason that once the mutation in favour of Nand Kaur on the basis of Will, qua the estate of Santa Singh, share of Nand Kaur could not be less than 1/3rd. So is the position as regards the share of Inder Singh, i.e., to the extent of 1/3rd being the son of Nathu Singh. The plaintiffs being the legal heirs of Nand Kaur and Inder Singh have been rightly held to be owners to the extent of 1/3rd share each as per natural succession in consonance with Section 8 of the Hindu Succession Act.

Keeping in view the aforementioned facts and circumstances, I am of the view that the judgments and decrees of both the courts below are well founded and based upon appreciation of the oral as well as documentary evidence. No question of law, much less substantial one, arises for consideration of this Court.

No ground for interference is made out.

Dismissed.

March 11, 2016. **[Amit Rawal]**
kadyan **Judge**