

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

RSA No.3606 of 2011 (O&M)
Date of decision : 12.02.2016

Rajbir and ors.

...Appellants

Versus

Manik Ram 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. H.S. Bajwa, Advocate for the appellants.

Mr. Harkesh Manuja, Advocate for respondents.

AMIT RAWAL, J. (Oral)

The appellant-plaintiff is aggrieved of the concurrent finding of fact, whereby the declaration challenging the sale deed dated 28.09.2004 executed by defendant No.4 in favour of defendant Nos.1 to 3 on the premise that the property at the hands of Jagat Singh-defendant No.4 was ancestral in nature has been declined.

Mr. H.S. Bajwa, learned counsel appearing on behalf of appellants submits that umpteen number of documentary evidence has been brought on record to show that property at the hands of Jagat Singh was ancestral in nature, and, therefore, property given to Jagat Singh in

compromise by Parvati under some other litigation would not change the nature and character of the property. Plaintiff challenged the alleged krevā marriage of Parvati but the Courts below have failed to notice the aforementioned facts and dismissed the suit.

Mr. Harkesh Manuja, learned counsel appearing on behalf of defendants submits that Jagat Singh got the property from Parvati in compromise and in appeal similar question arose and held that the property at the hands of Parvati w/o Anup Singh, having common ancestor Lotia was not ancestral in nature. The trial Court, in the present suit, gave the findings that property was not ancestral, but was self-acquired property of Anup Singh which devolved upon him. Concurrent finding of fact cannot be interfered by exercising the power under Section 100 of Code of Civil Procedure. No substantial question of law arises for determination by this Court.

I have heard learned counsel for the parties and appraised the paper book and of the view that appeal is liable to be dismissed as no effort has been made to connect the property as ancestral. No revenue record, much less, excerpts or Kursinama (pedigree) has been placed on record. As per High Court Rules and Order which has been noticed in *Banta Singh & ors. Vs. Phuman Singh and ors. 1972 PLJ 275*, it is essential requirement of law to stake the claim vis-a-vis the nature of the property being ancestral. Having not done, rightly so, the trial Court dismissed the suit. Even otherwise, once there is already findings in previous instituted suit by Jagat Singh, property was not ancestral in nature at the hands of Anup Singh having common ancestor Lotia, therefore, plaintiff cannot even plead to say

that the nature and character of the property in the present suit, much less, as per para No.221 of Hindu's Mulla Law (21st Edition) also provide that it should be fourth generation who can stake the claim in lineage, vis-a-vis, ancestral property. In the absence of the evidence, both the Courts below have concurrently held that plaintiff failed to discharge the onus.

I am in agreement with the aforementioned findings and is of the opinion that no substantial question of law arises for determination by this Court.

Appeal is dismissed.

12.02.2016

pawan

**(AMIT RAWAL)
JUDGE**