

Regular Second Appeal No.555 of 2011 (O&M) { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.555 of 2011 (O&M)
Date of Decision: August 8th, 2016

Smt.Bhartho & others

...Appellants

Versus

Durga Dutt & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Ashwani Gaur, Advocate,
for the appellants.

Mr.S.P.Chahar, Advocate,
for respondent Nos.1 to 3.

Mr.Arihant Jain, Advocate,
for respondent Nos.5 to 10.

AMIT RAWAL, J. (Oral)

Appellant-plaintiffs are aggrieved of the concurrent findings of fact and law, whereby the suit for declaration and consequential relief of permanent injunction challenging mutation No.398 (Ex.P14) and Rapat No.141 dated 18.12.1975, has been dismissed.

Mr.Ashwani Gaur, learned counsel for the appellant-plaintiffs submits that Sheru was owner in possession of land measuring

5 kanals 11 marlas. He had three sons, namely, Kundan, Kanwar Singh and Pokhar. All succeeded to 1/3rd share. Plaintiffs are successors-in-interest of Kanwar Singh, whereas defendants are successors-in-interest of Kundan. Jogi Ram and Giani are sons of Pokhar. Defendant Nos.3 to 7 are sons of Ishwar son of Jogi Ram. The aforementioned Rapat was not signed by the plaintiffs and, therefore, the property could not have been mutated in the absence of the signatures. There was a series of litigation against the successors-in-interest. All these aspects have not been taken into consideration.

This Court during the course of arguments raised a query to the learned counsel for the appellants whether the mutation and the Rapat were excess or less than the share. The answer was that it was according to the share. In view of such situation, I am of the view that perhaps no cause of action or any grievance accrued in favour of the plaintiffs to file the suit.

In my view, both the Courts below have rightly not granting the relief as prayed for as the Rapat and mutation are in consonance with 1/3rd share of Kundan, Kanwar Singh and Pokhar and proper procedure was also followed.

For the foregoing reasons, there is no illegality and perversity in the findings rendered by both the Courts below in declining

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the relief as sought for. No substantial question of law arises for determination by this Court. No case for interference is made out.

Appeal stands dismissed.

August 8th, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No