

Regular Second Appeal No.4699 of 2012 (O&M) { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.4699 of 2012 (O&M)

Date of Decision: September 01, 2016

The Yamuna Nagar Central Co-operative Bank Ltd., Yamuna Nagar

...Appellant

Versus

Kamaldeep Singh & another

...Respondents

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

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

Mr.R.S.Mamli, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff is aggrieved of the dismissal of the suit seeking declaration for setting-aside of the judgment and decree dated 19.2.2005 passed in Civil Suit No.5/4.1.2005 titled “Kamaldeep Versus Surain Singh” in respect of land measuring 43 kanals 14 marlas.

Mr.Sachin Gupta, learned counsel for the appellant-plaintiff submits that Narinder Singh had squandered away/misappropriated the amount of the appellant-Society in order to thwart the claim of the

Regular Second Appeal No.4699 of 2012 (O&M) { 2 }

Society and in this regard, FIR No. 13 dated 11.1.2005 was also registered against him. However, the consent decree, aforementioned, was passed in favour of Kamaldeep Singh. In fact, the property at the hands of Surain Singh was ancestral as it had fallen from Lakha Singh to Surain Singh, then Surain Singh to Narinder Singh and Narinder Singh to Kamaldeep Singh, being the 4th generation in lineage. The Society is to recover the amount from Narinder Singh as the property had been squandered away. It is in this background, the suit was instituted, but both the Courts below have erroneously dismissed the suit. Even Narinder Singh was convicted.

Mr.R.S.Mamli, learned counsel for the respondents submits that the appellant-plaintiff did not have any locus standi to institute the suit as he was not member of the joint family, but had legal remedy to seek the recovery of the amount in accordance with law and not in the manner and mode and noticing this fact, the Courts below declined to grant the declaration.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the appellant-plaintiff did not have any locus standi to challenge the decree as he was not the member of the joint family.

It is the conceded position on record that Narinder Singh had

Regular Second Appeal No.4699 of 2012 (O&M) { 3 }

been convicted and some compensation has been awarded in favour of the Society, so the appellant-Society is within its right to seek recovery of the amount in case they are able to establish but not in the manner and mode and rightly so, the suit had been dismissed.

For the foregoing reasons, I do not intend to differ with the findings rendered by both the Courts below. No substantial question of law arises for determination. No case for interference is made out.

Appeal stands dismissed.

September 01, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No