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

**RSA-5131-2012 (O&M)
Date of decision : 19.01.2016**

Virsa Singh

...Appellant

Versus

General Public and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surender Dhull, Advocate
for the appellant.

Mr. Amarjit Singh Virk, Advocate
for respondent No.17.

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

AMIT RAWAL, J. (ORAL)

The appellant-plaintiff is in regular second appeal against the concurrent findings of the fact, whereby the plaintiff had claimed two fold relief, that Malook Singh son of Ranjit Singh, who is the real brother of the plaintiff be declared as dead, and as per the family settlement, the property described therein, mutated in his favour. However, the trial Court granted first relief by declaring Malook Singh as dead, but did not grant the second relief, viz-a-viz, mutation of the property exclusively in his name on the basis of the

oral settlement.

Mr. Surender Dhull, learned counsel appearing on behalf of the appellant-plaintiff submits that defendant No.3 and 6 i.e. brother and sister, had admitted the claim of the appellant-plaintiff, much less, family settlement. Therefore, the Court ought to have granted the said relief, thus, there is illegality and perversity in the order, much less, substantial question of law arises for determination of this Court.

Mr. A.S. Virk, learned counsel appearing on behalf of respondent No.17 submits that after Malook Singh having been declared as dead, his entire property devolved upon the brothers and sisters. The family settlement was required to be registered and as there was no pre-existing right.

I have heard the learned counsel for the parties and appraised the paper book.

The family settlement between the parties, in the absence of the legal heirs of Malook Singh, does not entail some creation of the pre-existing right in favour of the siblings. Since, the appellant-plaintiff are the siblings of Malook Singh, the family settlement was compulsorily required to be registered. The defendants have been able to prove their respective possession and this fact is proved from documentary evidence (Ex.P6) Khasra girdawri, which shows that he is in exclusive possession of the property. Both the Courts below have declined the said relief on the basis of the appreciation of the oral and documentary evidence.

Keeping in view the aforementioned facts, I do not intend to differ with the findings rendered by both the Courts below, much less, no substantial questions of law arises to be determined by this Court.

Accordingly, the appeal is dismissed.

19.01.2016
yogesh

(AMIT RAWAL)
JUDGE