

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 1952 of 2013(O&M)

Date of Decision:4.4.2016

Davinder Kaur

---Appellant

vs.

Beero and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Manpreet Singh, Advocate
for the appellant

Mr. Amit Arora, Advocate
for the contesting respondents No. 1 and 2

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

Rekha Mittal, J.

The present appeal lays challenge to the concurrent findings recorded by the courts below whereby claim of respondents No. 1 and 2 for joint possession in respect of land measuring 180 kanals 18 marlas to the extent of 2/9th share out of 1/3rd share of Sh. Kundan Singh their father (since deceased) has been accepted.

The sole submission made by counsel for appellant Davinder Kaur widow of Sh. Balbir Singh son of Kundan Singh is that mutation qua inheritance of Sh. Kundan Singh on the basis of testamentary succession was sanctioned on 16.5.1999 as Kundan Singh passed away on 6.5.1978 and mutation was sanctioned in presence of the contesting respondents, therefore, the respondents cannot claim any right in the land left behind by Sh. Kundan Singh on the basis of natural succession.

Counsel for the contesting respondents has supported the judgments passed by the courts below with the submission that the alleged Will dated 6.2.1977 (basis of mutation) has not seen the light of day to sustain plea of the appellant that her late husband Sh. Balbir Singh inherited to the estate of Sh. Kundan Singh by way of testamentary succession, to the exclusion of other class-I heirs of Sh. Kundan Singh. Another submission made by counsel is that the respondents proved on record a report of Tehsildar, Jhabbal (Ex. P3) to the effect that no Will was got registered by Kundan Singh son of Dhir Singh from 6.2.1977 to 6.5.1978.

I have heard counsel for the parties, perused the records but find no merit in the appeal.

Indisputably, Sh. Kundan Singh was the erstwhile owner of the suit land and he died in the year 1978 leaving behind one son namely Balbir Singh and two daughters Veero and Sheero (plaintiffs.) Widow of Sh. Kundan Singh predeceased him, reflected in the pedigree table prepared on the reverse side of mutation No. 3377 Ex. P2. Counsel for the appellant is not in a position to counter the submissions made by counsel for the

respondents that registered Will dated 6.2.1977 referred to in mutation No. 3377 did not see the light of day much less being proved in accordance with law. On the contrary, the respondents proved the report Ex. P3 according to which Kundan Singh son of Bir Singh did not get registered any Will with effect from 6.2.1977 to 6.5.1978. As the appellant failed to adduce satisfactory much less cogent, convincing and tangible evidence to prove any testament in favour of Sh. Balbir Singh her late husband, sanction of mutation in favour of Sh. Balbir Singh to the exclusion of other class-I heirs of Sh. Kundan Singh would not enure to benefit of the appellant as mutation neither creates nor extinguishes title to the property. I do not find any error much less illegality in the findings recorded by the courts below when otherwise no question of law much less a substantial one arises for adjudication.

For the reasons aforestated, the appeal is dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

4.4.2016
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