

RSA No. 1200 of 2016 (O&M)

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

RSA No. 1200 of 2016 (O&M)

Date of Decision: March 21, 2016

Ramal and others

...Appellants

Versus

Dhanpati and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jarnail S. Saneta, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (Oral):

Challenge in this appeal is to the judgment and decree passed by the Additional Civil Judge (Senior Division), Rohtak, dated 26.02.2013, by which the suit for possession of the property bearing Rectangle No. 33, Killa No.1/2, measuring 7 marlas, situated in village Chamarian, Tehsil and District Rohtak, stands decreed, appeal against which preferred by the appellant-defendants has been dismissed by the Additional District Judge Rohtak, on 20.01.2016.

It is contention of the learned counsel for the appellants that the appellant-defendant No.1-Ramal was adopted by Jangli, who was the younger brother of the natural father of the appellant on 19.12.1975. After the death of his uncle Jangli, he inherited the suit property and is in possession of the same. He contends that earlier a suit for permanent injunction restraining the appellant-defendants

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was filed by the respondent-plaintiff which has been dismissed by the Courts below and therefore, the present civil suit is not maintainable. Prayer has, thus, been made for setting aside the impugned judgments and decree.

I have considered the submissions made by the learned counsel for the appellants and with his able assistance, have gone through the impugned judgments.

It was asserted by the appellant-defendant No.1 that he had been adopted by Jangli on 19.12.1975 and there a writing was effected qua his adoption on the said date. No such writing has been produced or placed on record which would indicate that the appellant-defendant No.1 had been adopted by Jangli. In the evidence, which has been produced by the appellants and witnesses who had appeared for them, also do not support the case of the appellants. In the absence of any evidence to show that the appellant-defendant No.1-Ramal was the adopted son of Jangli, he has no right to the property specially when the first degree heirs of Jangli are available i.e. his daughters one of which is respondent-plaintiff.

The contention that the earlier suit for injunction as has been filed by the respondents has been dismissed again would not be of any help as the present suit is based upon the title and even the limitation is not applicable as he had asserted that since the year 1975, Ramal is in possession of the suit property. Admittedly, Jangli

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died in the year 1980 and the mutation has been sanctioned in favour of his two daughters, namely, Dhandpati and Phoolpati.

No other point has been urged or argued by the learned counsel for the appellant.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below being in accordance with the pleadings and the evidence brought on record and further based upon the settled principles of law which do not call for any interference by this Court as there is no misreading or non-consideration of the material on record nor is there any perversity or illegality in the same.

No substantial question of law arises in the present appeal which requires consideration of this Court. Therefore, finding no merit in the appeal, the same stands dismissed.

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In view of the order passed in the main appeal, no order is required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

March 21, 2016
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE