

Regular Second Appeal No.1916 of 2016 (O&M) { 1 }

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R.S.A.No.1916 of 2016 (O&M)
Date of Decision: August 04, 2016

Davinder Kaur

...Appellant

Versus

Harjinder Singh & others

...Respondents

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

Present: Mr.Sunil Agnihotri, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-plaintiff is aggrieved of the concurrent findings of facts and law, whereby the claim of the plaintiffs in a suit filed on 18.9.2006 seeking declaration that they and defendant Nos.1 to 3 are joint owners in possession to the extent of 1/5th share in the total suit land and challenge to the sale deeds dated 3.1.2001, 22.2.2001, 25.11.2004 and 2.2.2006 in favour of defendant Nos.4 to 6 executed by defendant No.1, has been declined.

Mr.Sunil Agnihotri, learned counsel for the appellant-plaintiff submits that Chanan Singh died intestate and his entire estate

was required to be mutated in favour of all the children. The plaintiffs are

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none else but the daughter and widow of Chanan Singh. Defendant Nos.1 to 3 are the son and other daughters. The mutation effected in the name of the respondents-defendants was against the natural succession and, therefore, the sale deeds, aforementioned, are nothing, but for selling their share, i.e., more than what the defendants had acquired and in this background, the suit was filed, but the Courts below have not noticed the revenue record, much less mutation and accordingly declined to grant declaration as sought for and, thus, prays for setting-aside of the impugned findings and formulation of the substantial questions of law as culled out in the memorandum of appeal.

I have heard the learned counsel for the appellant-plaintiff and appraised the paper book.

The stand of the respondent-defendants before the Courts was that jamabandi for the year 1987-88 (Ex.D10) and mutation bearing No.1971 duly proved that the plaintiffs and defendant Nos.2 and 3 had transferred their share in favour of Harjinder Singh and on the basis of the aforementioned fact, Harjinder Singh became owner of Khasra Nos. 190, 191, 193, 194, 195,196, 198 and 200. It is the said property which has been transferred in favour of defendant Nos.4, 5 and 6.

PW-1 Davinder Kaur in cross-examination admitted sanctioning of mutation in favour of defendant Nos.1 to 3 and as well as

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the mutation entered in the jamabandies. She also admitted that the land was purchased by Kulwinder Kaur. She also admitted delivery of possession of the land by defendant No.1 to Kulwinder Kaur. PW-2 Mehanga Singh appeared as a witness, but did not come for cross-examination. The entire property went in the ownership of Harjinder Singh.

In my view, the plaintiffs failed to rebut the documentary evidence which carries a presumption of truth unless it is rebutted. The Courts below, after examining the oral and documentary evidence, declined to grant the relief. I am in agreement 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.

August 04, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No