

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

R.S.A. No.4927 of 2013 (O&M)

Date of decision: 01.03.2016

Parma Nand and another

...Appellants

Versus

Krishan Kumar and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Yadav, Advocate
for the appellants.

Jitendra Chauhan, J.

CM Nos.13231-32-C of 2013

For the reasons contained in the applications, same are allowed and delay of 30 days in re-filing and 28 days in filing the present appeal are condoned.

Main Case

This regular second appeal is directed against the judgment and decree dated 06.05.2013, passed by the learned Additional District Judge, Bhiwani, (for short, the 'first Appellate Court') whereby, the appeal filed by the appellants, against the

judgment and decree dated 02.11.2010, passed by the learned Civil Judge, Jr. Divn., Charkhi Dadri, (for short, the 'trial Court'), has been dismissed.

The learned counsel for the appellants contends that in addition to land i.e. 24 Bighas 07 Bishwa, in village Bhandwa, Tehsil Charkhi Dadri, District Bhiwani, being the grandson of Sh. Lekhu, Sh. Harnarain (great-grandfather of the appellant), was entitled for 1/5th share of the property of Lekhu, which was illegally transferred in four shares. The appellant is further entitled to 1/4th share of the land transferred, to one of the co-sharers i.e. Dilsukh as he and his wife i.e. Mari died issueless. The learned Courts below have erroneously held that at the time of mutation No.3 dated 26.3.1913, the ancestors of the appellants being present did not raise any objection qua that mutation, as there was no pleadings or stand of the respondents that the ancestors of the appellants were present at the relevant time. However, at the time of mutation No.3, the forefather of the appellants were not present. Lastly, the learned counsel asserted that both the learned Courts below have ignored the documentary evidence produced on record i.e. Ex.P19, P20, P22, P30/A, jamabandi for the year 1887, which shows that Sh. Lekhu was the owner of the disputed land. Therefore, the

judgments and decrees passed by the learned Courts below dismissing the suit of the plaintiffs are liable to be set aside.

I have heard the learned counsel and perused the entire record on file.

Vide Ex.P31/A, it is duly proved that the ancestors of the appellants were present at the time of sanction of the mutation No.3 dated 26.03.1913 in family of the ancestor of the respondents. At the time of mutation No.3, Sh. Mamraj and Sh. Harnarain made the statement that they had no objection to the mutation sanctioned in favour of ancestors of the respondents. The father, the grand father and the great grand father of the appellants had the knowledge about the sanction of mutation of the remaining land of Sh. Lekhu, after his death, but, they never challenged the same. The appellant was not able to give the proper identification of the suit land. The appellants are bound by the acts of their predecessor-in-interest. The suit of the plaintiffs for challenging the mutation entry after ninety years is clearly barred by time. The property is not identifiable as thrice the consolidation proceedings have taken place. In this considered view, this Court feels that the learned Courts below have rightly dismissed the suit of the plaintiffs vide impugned

judgments and decrees of the learned Courts below.

On consideration, this Court finds that the contentions raised by the learned counsel for the appellants have no merit. No evidence has been shown to have been ignored from consideration, nor there is any misreading of evidence. These are pure findings of facts. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed in limine.

01.03.2016

ashok

(JITENDRA CHAUHAN)
JUDGE