

RSA No.1253 of 2015 (O&M)

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

RSA No.1253 of 2015 (O&M)

**Date of Decision: March 01, 2016**

**Barrister Lal**

...Appellant

Versus

**Santosh Kumari**

...Respondent

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. A.G. S. Dhillon, Advocate  
for the appellant.

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**AUGUSTINE GEORGE MASIH, J. (Oral):**

Challenge in this appeal is to the judgment and decree passed by Civil Judge (Junior Division), Nabha, dated 25.01.2014, whereby, the suit for joint possession of 2/3<sup>rd</sup> share in land measuring 13 Bighas and 19 Biswas as detailed in the head note, situated in Village Dhanori, Tehsil Nabha and the suit for enquiry into *mesne profits* from the suit property till the date of delivery of possession to the appellant-plaintiff and a suit for declaration that the appellant-plaintiff is owner of 2/3<sup>rd</sup> share in the aforesaid land, has been dismissed on the ground that the appellant-plaintiff has not been able to prove that he is son of Piara Lal and that there is a Will dated 05.12.1976 in favour of the respondent-defendant, who is daughter of Piara Lal, appeal against which preferred by the appellant-plaintiff has been dismissed by the Appellate Court on the ground that the

appellant-plaintiff has not been able to prove himself to be the son of Piara Lal, although the findings were recorded with regard to the Will dated 05.12.1976 that the same is not legal and valid as the same is shrouded with suspicion, on 21.11.2014.

It is contention of the learned counsel for the appellant that from the evidence which has been brought on record, it is apparent that the appellant-plaintiff is the son of Piara Lal, in fact, Piara Lal and his wife Bimla Rani, separated from each other during the infancy of the appellant-plaintiff. He was residing with his mother, whereas, his sister respondent-defendant Santosh Kumari was residing with their father, Piara Lal. After the death of Piara Lal on 14.12.1976, Santosh Kumari continued to pay the proceeds from the produce of the land to her mother but after her death on 28.12.2007, she stopped making any payment to the appellant-plaintiff. At this stage, the appellant-plaintiff asserted his right being the son of Piara Lal and has filed the present suit. To prove the said fact that he was the son of Piara Lal, he has placed on record certificate Ex.P-1, which was registered at Sr. No. 47 dated 17.01.1953, where, in the Column of father's name, Piara Lal was mentioned. Apart from that, appellant-plaintiff has also produced the school leaving certificate mark P-1, which shows the name of the father to be Piara Lal. Apart from this, he has also produced pedigree tables Ex. P-7 and P-11, which also show him to be son of Piara Lal. He had moved an application to the Tehsildar, Nabha, for certifying as to who was the

natural heir of late Piara Lal in which the member of the Panchayat had declared that the plaintiff as well as the defendant are son and daughter of Piara Lal son of Ramanand and it was reported as such by the Patwari in mark-F and the dependent was declared as a natural heir of deceased Piara Lal vide mark-G by the Tehsildar, Nabha. On the basis of these documents counsel contends that it is apparent that the appellant-plaintiff was the son of Piara Lal and the findings as recorded by the Courts below, thus, cannot sustain.

Having considered the submissions made by the counsel for the appellant and going with the impugned judgments, I do not find any merit in the same as Ex. P-1, which is the birth certificate, contains only an entry with regard to name of his father Piara Lal. The grandfather's name has not been mentioned in the said certificate, rather, it is mentioned as 'dohta of Chetram' after the name of Piara Lal. The column where the name of the child is mentioned is blank and similar is the position with regard to the column which pertains to the name of the mother. The school leaving certificate mark P-1 shows that the same has been issued on 19.05.2009, whereas, he had left the school on 20.05.1970 but this document has not been proved as none has been produced from the school to prove the authenticity of the said document. Similar is the position with regard to the pedigree tables as also the certificate alleged to have been issued by the Tehsildar Nabha, mark-G. As no evidence has been produced on record to prove the documents on

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which reliance has been placed by the counsel of the appellant as the same has rightly been ignored by the Courts below. The findings as recorded by the Courts below, therefore, cannot be faulted with.

A perusal of the impugned judgments would show that the concurrent findings returned by both the Courts below are based on proper appreciation of the pleadings and the evidence brought on record 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.

**CM No.3557-C of 2015**

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 01, 2016**

*Harish*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**