

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

RSA No.1955 of 2015 (O&M)

Date of decision:02.03.2016

Pal Singh and others ... Appellants

Vs.

Paramjit Kaur and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Mohd. Yousaf, Advocate
for the appellants.

AMIT RAWAL J. (Oral)

The appellant-plaintiffs are aggrieved of the concurrent findings of facts and law, whereby, suit claiming declaration vis-a-vis challenge to the sale deed executed by Paramjit Kaur alleged wife of Ajaib Singh, has been dismissed.

Mr. Mohd. Yousaf, learned counsel appearing on behalf of the appellant-plaintiffs submits that plaintiffs are none else but brothers of Ajaib Singh. The relationship of Ajaib Singh and Paramjit Kaur as husband and wife had categorically been denied. Thus, both the Courts below have given a finding that the property was ancestral but dismissed the suit on the ground that appellants have not been able to prove the relationship, thus, urges this Court to formulate the substantial questions of law as culled out in the grounds of appeal.

I have heard learned counsel for the appellant-plaintiffs and appraised the judgments and decrees of the Courts below.

Section 50 of the Indian Evidence Act, leaves no manner of doubt in proving the relationship of parties which reads thus:-

50. Opinion on relationship, when relevant.—When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, or any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act, 1869 (4 of 1869) or in prosecutions under section 494, 495, 497 or 498 of the Indian Penal Code (45 of 1860).”

The appellant-plaintiffs have failed to prove the relationship by leading evidence, much less, corroborative evidence that Paramjit Kaur is/was not wife of Ajaib Singh, who, has sold the property to third party on demise of Ajaib Singh as the property was mutated in her name. In the absence of discharge of the onus, burden can not be shifted upon the respondent-defendants de hor of the fact that she did not step into witness box.

In view of the aforementioned observations, I do not intend to differ with the findings rendered by both the Courts below, which are based upon the appreciation of oral and documentary

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evidence, much less, no substantial question of law arises for determination of this Court.

Accordingly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

March 02, 2016
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