

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

RSA-3605 of 2015 (O&M)

Date of decision: 27.01.2016

Sunil

...Appellant

Versus

Sunita Jangra and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Mani Ram Verma, Advocate for the appellant.

Jitendra Chauhan, J. (Oral)

The plaintiffs/respondents filed suit for declaration and permanent injunction. The trial Court vide judgment and decree dated 14.02.2012, decreed the suit.

2. Aggrieved against the findings of trial Court, the defendant/appellant filed an appeal which was dismissed by the learned Appellate Court, vide judgment and decree dated 31.01.2015.

3. The Appellate Court affirmed all the findings recorded by the trial Court after discussing and evaluating the

oral as well as documentary evidence on record, hence, the instant appeal at the behest of the defendant/appellant.

4. It is contended by learned counsel for the appellant that both the Courts below have gravely erred in not appreciating the fact that the respondents never stayed with Man Singh, who had died at the age of 40 years. There is no proof of marriage or any other evidence like ration card or voter card to establish that the marriage was ever solemnized between Man Singh and respondent No.1. The property owned by said Man Singh was not ancestral. In fact, the said Man Singh got executed a release deed in favour of the appellant, vide mutation No. 1132 dated 02.10.2009 and the appellant is in the cultivating possession of the same.

5. I have heard the rival contentions of learned counsel for the appellant.

6. It is not in dispute that respondent No.1 is the widow and respondent No.2 is the daughter of said Man Singh. The appellant had laid his claim being the owner in possession of 24 kanals 5 marlas of land, vide mutation No. 1132 along with cultivating right over the same. Both the Courts below after analyzing the evidence on record have categorically held that the

property in the hand of Man Singh was ancestral in nature which is duly proved on record. The learned counsel for the appellant has failed to refer any evidence that he is in the cultivating possession of the land in dispute. It is sufficiently proved on record that property in the hands of Man Singh was ancestral in nature and the respondents are the legal heirs of said Man Singh. In the contents of Ex.D1, the release deed, Man Singh was shown to be unmarried and issue less, which established the fraud and misrepresentation on record and both the Courts below have rightly dealt with the same in the right perspective and have rightly held that the possession of the plaintiffs/respondents stands proved in reference to the ancestral property of Man Singh. There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the pleadings and the evidence produced by the parties, this Court finds that the contentions have no merit as they only relate to the appreciation of evidence. No evidence is shown to have been ignored from consideration, nor there is any misreading of evidence. In **Kashmir Singh Vs. Harnam Singh and another**, 2008(2) RCR (Civil) 688, it has been held as under:-

“17. The general rule is that High Court will not interfere with concurrent findings of the Courts below. But it is not an absolute rule. Some of the well recognized exceptions are where (i) the courts below have ignored material evidence or acted on no evidence; (ii) the courts have drawn wrong inferences from proved facts by applying the law erroneously; or (iii) the courts have wrongly cast the burden of proof. When we refer to 'decision based on no evidence', it not only refers to cases where there is a total dearth of evidence, but also refers to any case, where the evidence, taken as a whole, is not reasonably capable of supporting the finding.”

7. These are pure findings of fact. No question of law, much less substantial question of law arises in the present appeal. Hence, no interference is called for.

Dismissed.

27.01.2016
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(JITENDRA CHAUHAN)
JUDGE