

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

RSA-4037 of 2015 (O&M)

Date of decision: 15.01.2016

Amarjit Singh Jandu through LRs

...Appellants

Versus

Daljinder Singh @ Balwinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ajay Jain, Advocate for the appellants.

Jitendra Chauhan, J.

By way of the present appeal, the plaintiff/appellant has assailed the judgment dated 08.04.2015, passed by Addl. District Judge, Ludhiana, upholding the judgment dated 15.03.2012, passed by Addl. Civil Judge (Sr. Divn.), Ludhiana, whereby the suit for declaration filed by the plaintiff/appellant Amarjit Singh (since deceased) was dismissed.

It is contended by learned counsel for the appellants that both the Courts below have gravely erred in holding that the property in dispute was not an ancestral property of the

appellants and the suit was barred by limitation. The appellant-deceased came to know about the decree and the sale deeds in the month of February, 1997, after the death of his mother Smt. Ranjit Kaur. The dispute is amongst the brothers and sisters. The respondents in collusion with each other have obtained the decree dated 27.02.1987. The appellants being the legal heirs of the deceased have an equal share in the ancestral property.

Heard.

The Court has perused the entire record. Indisputably, the mother of the parties, Ranjit Kaur, was owner in possession of the property in dispute. Perusal of the jamabandi for the year 1984-85 would reveal that Ranjit Kaur was the exclusive owner of the property. The appellant in his cross examination had also admitted that Ranjit Kaur lived in her own house and remained of a sound mind till her death. The appellant had laid his claim over the property claiming the same to be a Joint Hindu Family Ancestral & Coparcenary Property in the hands of his mother Ranjit Kaur, however, no evidence was led by the appellant in support of this claim. Further, the appellant had filed the suit after a period of 10 years from the passing of the judgment and decree dated 27.02.1987, despite having knowledge about the

same as had been admitted by the appellant himself. Therefore, the suit of the plaintiff is hopelessly time barred. The impugned decree dated 27.02.1987 was challenged in 1997, though it is proved that the decree came in the knowledge of the plaintiff-appellant, vide Ex.D1 to Ex.D3 in October, 1987. Under Article 59 of the Schedule attached to the Limitation Act, the limitation to challenge a decree is three years. Both the Courts have concurrently held that the suit of the plaintiff is barred by limitation. Taking into consideration all facts and circumstances of the case, 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.”

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.

15.01.2016
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(JITENDRA CHAUHAN)
JUDGE