

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

-.-

RSA 4140 of 2015 (O&M)
Date of decision: 22.03.2016

Tehal Singh

..... Petitioner

Versus

Natha Singh through LRs and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Malkeet Singh, Advocate
for the petitioner

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

Rekha Mittal, J. (Oral)

The present appeal has been directed against the consistent findings recorded by the Courts below whereby suit of the plaintiff (appellant herein) was dismissed by the learned trial Court and the judgment and decree passed by the trial Court was affirmed in appeal by the District Judge, Ludhiana.

Tehal Singh son of Natha Singh, the appellant staked his claim to be owner in possession of half share of the land measuring 157 kanals 1 marla, detailed in head note of the plaint as per jamabandi for the year 2001-02 on the premise that the suit land is Joint Hindu Family coparcenary property of the plaintiff and defendants, therefore, the sale deed dated 18.01.2006 executed by defendant No. 1 in favour of defendant No. 2 is

illegal and not binding upon the rights of the plaintiff as the same is without legal necessity and consideration. The Courts below have negated claim of the appellant by holding that the plaintiff failed to substantiate his plea that the suit land is Joint Hindu Family coparcenary property, the plaintiff being one of the coparceners had a right therein by way of birth. On 01.03.2016, the order passed by this Court reads as follows:-

“The present appeal lays challenge to consistent findings recorded by the Courts below, dismissing claim of the appellant/plaintiff in regard to share in the suit property on the plea that the same is Joint Hindu Family co-parcenary property which has been negated with the observations that as mutation in regard to inheritance of Sewa Singh has been sanctioned on the basis of testamentary succession, plea of the appellant/plaintiff, grandson of Sewa Singh is not maintainable.

Counsel for the appellant prays for time to make submissions.

Adjourned to 22.03.2016.”

Counsel for the appellant is not in a position to counter findings of the Courts below that mutation in regard to inheritance of Sewa Singh has been sanctioned on the basis of testamentary succession, therefore, plea of the plaintiff, admittedly grandson of Sewa Singh is not sustainable. He has also failed to point out any material on record to establish his claim with regard to the suit property to be Joint Hindu Family coparcenary property. As the appellant has failed to establish his plea of coparcenary property, basis of the suit, no error much less illegality can be

noticed in the findings recorded by the Courts below when otherwise no question of law much less a substantial one arises for adjudication.

For the foregoing reasons, finding no merit, the appeal is dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

22.03.2016
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