

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

**Regular Second Appeal No.3614 of 2014 (O&M)  
Date of Decision: July 25, 2016.**

Manohar Lal

**.....APPELLANT(s).**

**VERSUS**

Manjit Kaur and others

**.....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Karamveer Singh Banyana, Advocate  
for the appellant (s).

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**SURINDER GUPTA, J.**

This is appeal by plaintiff Manohar Lal against the concurrent judgments of the Courts below dismissing his suit seeking the relief of declaration that sale deed No.1865 dated 18.10.1989 executed by his father Uttam Chand through his general power of attorney Bawa Singh in favour of Balbir Son of Ishar Singh, predecessor-in-interest of defendants No.1 to 4 pertaining to the land measuring 48 kanals 19 marlas as fully described in the head note of the plaint, is illegal, without consideration and legal necessity.

2. Case of appellant-plaintiff, in brief, is that Chela Ram, his grand father was owner of the suit land and he died in December, 1975. the suit property was inherited by Uttam Chand son, Sunderi Devi, Bhagwni Bai, Mohindro Bai daughters and Magha Bai wife of Chela Ram vide mutation No.948 dated 20.11.1986 sanctioned as per order of Assistant

Collector 1<sup>st</sup> Grade, Fatehabad dated 07.10.1986.

3. The Courts below, for want of any evidence on record to this effect, discarded the plea of appellant-plaintiff that the suit land was joint Hindu family coparcenary property in the hands of Uttam Chand. Appellant-plaintiff along with his brother Jug Lal had earlier filed civil suit No.31 of 1996(Ex.D5) challenging mutation No.948 dated 20.11.1986 pertaining to inheritance of estate of Chela Ram, which was dismissed.

4. Learned first Appellate Court also upheld the observation of learned Addl. Civil Judge (Junior Division), Fatehabad that the suit land is not proved to be joint Hindu family coparcenary property, rather it was self acquired property in the hands of Uttam Chand. While appreciating evidence on record, it observed in para 17 of the judgment as follows:-

17. The case as set up by the appellant-plaintiff is that the suit land was originally owned by Chela Ram their grand-father, from whom, the same came by way of inheritance to their father respondent no.5 Uttam Chand and his sisters vide mutation no.940 (sic 948) dated 20.11.1986 it is disputed by the contesting respondent-defendants no.1 to 4 claiming that the said mutation was contested mutation and not based on inheritance and in this regard, he has referred to Ex.D30 which is order dated 07.10.1986 passed by A.C. 1<sup>st</sup> Grade, Fatehabad relating to the devolving of property in favour of Uttam Chand on the basis of judgment and decree dated 3.4.1972. Even though, on perusal of mutation Ex.P6 dated 20.11.1986, it is mentioned that it relates to inheritance of property of Chela Ram but on the same it is mentioned that as per order dated 07.10.1986 passed by A.C. 1<sup>st</sup> Grade, Fatehabad, the succession of late Chela Ram is sanctioned in favour of Uttam Chand and his mother Magha Bai in

equal shares. So, the mutation Ex.P6 is not based on inheritance as subsequently the same has been modified as per order passed by A.C. 1<sup>st</sup> Grade, Fatehabad which is Ex.D30. Even otherwise, no evidence has been led on file that the suit land in the hands of Chela Ram was ancestral or it had devolved upon him from his forefather. Further Ex.P1 is stated to be allotment letter of suit land in favour of Chela Ram. So, it is established that the suit property was self acquired property of Chela Ram and even if it devolved on Uttam Chand by way of succession, even then, its nature cannot be considered to be ancestral or joint Hindu family property but the same will remain as self acquired property in the hands of Uttam Chand, in view of the provisions of Section 8 of the Hindu Succession Act. The reliance in this regard can be based upon law as laid down by the Hon'ble Supreme Court of India in ***CWT Kanpur Vs. Chander Sain and others AIR 1986 Supreme Court 1753***. In this authority, Hon'ble Supreme Court of India has held that on the death of his father, the son inherited the property of his father as an individual in his personal capacity and not as a karta of his own family. So even if the case of the appellant-plaintiff as pleaded in the plaint, is presumed to be correct, though he has failed to prove the same, even then, the nature of the suit property will not change to ancestral or joint Hindu family property and will remain self acquired property in the hands of defendant no.5 Uttam Chand, father of plaintiff and proforma respondent no.6 and so, he was well within his rights to alienate the same in favour of Balbir Singh, predecessor-in-interest of defendants no.1 to 4 by impugned sale deed dated 18.10.1989.”

5.

I have also heard learned counsel for the appellant on the aspect

that as to whether the suit property was joint Hindu family coparcenary property in the hands of Uttam Chand.

6. The appellant-plaintiff has not been able to point towards any evidence on file which show that the suit property was inherited by Chela Ram from his father, so as to make out a case that the property which has devolved on Uttam Chand from his father Chela Ram, whether by way of inheritance or by way of family settlement, was joint Hindu family coparcenary property qua the plaintiff.

7. Learned counsel for the appellant-plaintiff could not make out that the judgments of the Courts below are based on misreading of evidence or any evidence has been ignored or wrongly appreciated, calling for any interference in the findings of fact recorded by the Courts below.

8. No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

**July 25, 2016**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**

***Whether speaking/reasoned:***

√  
***Yes/No***

***Whether Reportable:***

√  
***Yes/No***