

R.S.A. NO.3870 OF 2014

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

R.S.A. NO.3870 OF 2014

DATE OF DECISION: FEBRUARY 02, 2016

Kashi Ram and others

.....Appellants

VERSUS

Ranvir Singh and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

**Present: Mr. Sandeep Punchhi, Advocate,
for the appellants.**

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment and decree dated 04.01.2012 passed by the Additional Civil Judge (Senior Division), Ellenabad, whereby the suit for declaration filed by the appellant-plaintiff, claiming himself to be the joint owner in possession of the land in equal share situated in Village Mohmadpuria, Tehsil Rania, District Sirsa, fully detailed in the head note of the plaint, alongwith defendants and proforma defendants, being an ancestral Hindu undivided family property, which has been bequeathed by way of a Will dated 27.08.2008 executed in favour of respondent-defendants by Ami Lal, father of the appellant-plaintiff, has been dismissed, appeal against which preferred by the appellant-plaintiff has also been dismissed by the Additional District Judge, Sirsa, on

18.04.2014.

It is the contention of learned counsel for the appellant that the Courts below have proceeded to disentitle the appellant-plaintiff of the claim in the suit property on the ground that he has not been able to establish the ancestral nature of the property. He further contends that the said finding is not maintainable in the light of the fact that the respondents are admitting that the original owner of the property was the great grand father of appellant-plaintiff, Parsa Ram and from him, it came to his grand father, Rawat Ram to the extent of two shares from where it came to the shares of Ami Lal, father of the appellant-plaintiff, Moma and Bhopa alongwith Kashi Ram vide registered *Tamliknama* dated 17.06.1957. He further contends that because of this *Tamliknama*, the property has not been partitioned but it continued to be a coparcenary and, therefore, is an ancestral property. Seeing the three generations on the paternal side, the land would be termed as ancestral in nature and the claim, as has been made by the appellant-plaintiff, would be fully justified as the ancestral land could not have been willed in favour of other brothers of the appellant-plaintiff, who are sons of the second wife. He, thus, contends that the judgments and decree passed by the Courts below cannot sustain and deserve to be set-aside.

This contention of learned counsel for the appellant cannot be accepted in the light of the fact that there is admittedly a registered *Tamliknama* dated 17.06.1957, which means a document of transfer of ownership rights, which was executed by Ami Lal, father of the appellant-plaintiff, as per which each of the four brothers (sons of Ami Lal) got one share. If the partition of the land has taken place at the level of the grand father of the appellant-plaintiff, the property becomes ownership of the

individuals at whose hands the same had devolved upon as per the said *Tamliknama*. It no more remains a Joint Hindu Family property but is converted into exclusive property of the co-sharers. Therefore, the property is no more an ancestral one. The Courts below have rightly concluded to this effect. If the property is not an ancestral one, then the claim, as made in the suit, would not survive. Thus, there is no illegality committed by the Courts below in coming to the conclusion that the land is not an ancestral property and, therefore, rightly rejected the claim of the appellant-plaintiff.

No other ground has been urged and argued by the counsel for the appellants.

Both the Courts below have returned concurrent findings after properly appreciating the pleadings and evidence brought on record by the parties and the same cannot be interfered with as there is no perversity or illegality in the same.

No substantial question of law is involved in the present appeal. Therefore, finding no merit in the present appeal, the same stands dismissed.

February 02, 2016
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(AUGUSTINE GEORGE MASIH)
JUDGE