

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

RSA-4448 of 2014 (O&M)

Date of decision: 04.04.2016

Seetal Singh

...Appellant

Versus

Sohan Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajpaul Kansal, Advocate
for the appellant.

Jitendra Chauhan, J. (Oral)

CM-10276-C-2014

Keeping in view the averments made in the application, the same is allowed. The delay of 116 days in re-filing the present appeal is hereby condoned.

RSA-4448-2014

The suit for declaration filed by the plaintiff/appellant (for short 'the appellant') was dismissed by the trial Court vide judgment and decree dated 01.06.2010.

2. Aggrieved against the findings of trial Court, the

appellant filed an appeal which was dismissed by the learned 1st Appellate Court, vide judgment and decree dated 21.09.2013.

3. The 1st 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 appellant.

4. It is contended that both the Courts below have failed to appreciate the fact that previously Mani Singh was the owner in possession of the property in dispute measuring 35 kanals 15 marlas. After his death, his share was inherited in equal shares by his children i.e. the appellant and respondents No.2 to 5. It has been duly proved on record that the property in dispute was ancestral but the Courts below have failed to appreciate and have given findings contrary to the above fact.

5. Heard, the learned counsel for the appellant.

6. It is not in dispute that Mani Singh was owner in possession of the suit property. The plaintiff had claimed that the property in dispute is ancestral property of Mani Singh which came into his possession from his forefathers and after the death of Mani Singh on 05.05.1993, the appellant and respondents No.2 to 5 being his legal heirs are now the joint owners in

possession of the suit property. On the contrary, the respondent No.1 had denied the fact that the land in dispute was ancestral. However, he admitted the fact that Mani Singh was the owner of the suit property and he executed a Will dated 02.09.1992 in his favour. A bare perusal of the record that the appellant had failed to demonstrate his claim that the property in dispute was ancestral. No evidence or document has been brought on record in this regard. Further, Dharam Kaur, wife of the appellant and the appellant himself have admitted in their statements recorded in FIR No.168 dated 17.09.2002 that Mani Singh had executed a Will in favour of respondent No.1 in respect of his entire property. Furthermore, it has also come on record that the present dispute between the parties had already been adjudicated upon in some previous litigation, vide judgment and decree Ex.PW1/D2 dated 31.10.1986, passed in Civil Suit No.188 of 18.12.1984, wherein the competent Court had come to the conclusion that the suit property is not joint Hindu family ancestral or coparcenary property. The appeal against the said judgment and decree was also dismissed, vide judgment and decree dated 25.08.1987. Thus, from the perusal of above facts and material on record, this Court feels that there is no merit in the present appeal and the

findings recorded by the Courts below are based on true appreciation of facts.

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 in limine.

04.04.2016

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(JITENDRA CHAUHAN)
JUDGE