

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

**RSA No.157 of 1997 (O&M)
Date of Order: 21.11.2017**

Raja Ram

..Appellant

Versus

Sita Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Puran Singh Rana, Advocate,
for the appellant.

ANIL KSHETARPAL, J (Oral)

Defendant-appellant is in regular second appeal against the concurrent findings of fact arrived at by the Courts below.

Plaintiffs had filed a suit for declaration claiming that they are joint owners in possession of 3/4th share of the suit land measuring 38 kanals situated in village Pirthipur, Hadbast No.321, Tehsil and District Ropar.

Both the Courts below after appreciating the evidence available on the file, decreed the suit filed by the plaintiffs.

I have heard counsel for the appellant at length and with his able assistance gone through the judgments passed by the Courts below.

It is not disputed that originally the land was in the exclusive name of Kishan Chand. It is the case of the defendant-appellant-Raja Ram that this property was purchased with the joint fund and, therefore, it was a joint property. Raja Ram claimed that he was owner of 1/2 share of the suit property. Raja Ram failed to produce any evidence available on the file to

prove that Kishan Chand and Raja Ram had jointly purchased the property.

On the death of Kishna Chand, the mutation was sanctioned in favour of natural heirs i.e. Bachni, the mother, Sita Devi widow and Madan Gopal & Hari Saran, the sons.

Bachni Devi, the mother, executed a will-testamentary document in favour of Raja Ram with respect to 1/4th share which had come to her share after the death of Kishan Chand. That is how the plaintiffs filed a suit claiming 3/4 share in the property.

Learned counsel for the appellant has vehemently argued that in view of Ex.D2, the writing, 1/2 share of the property was given to Raja Ram in a family settlement. Learned counsel has read over the Rapat Roznamcha, Ex.D2.

I have carefully heard the Rapat Roznamcha, Ex.D2. In my considered opinion, such Rapat Roznamcha does not transfer ownership of the property in favour of Raja Ram. It is nowhere stated in the aforesaid Rapat Roznamcha, Ex.D2, that ownership of 1/2 share of the property has been given to Raja Ram. Merely exchange of possession amongst the family members does not give credence to the plea of Raja Ram that he was given 1/2 share of the property or his ownership over 1/2 share of the property was acknowledged.

Learned counsel for the appellant could not point out any substantive evidence to prove that Raja Ram was in fact owner of 1/2 share of the disputed property.

Learned counsel for the appellant has further read over the Will executed by Bachni Devi in favour of Raja Ram. Even the aforesaid will does not show that Raja Ram was the owner of the property to the

extent of ½ share.

For the reasons recorded above, this Court does not find any good ground to interfere with the concurrent findings of fact arrived at by the Courts below.

The regular second appeal is dismissed.

November 21, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No