

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

**RSA No.4228 of 2013 (O&M)
Date of Order: 04.10.2017**

Rajinder Kaur and others

..Appellants

Versus

Harbant Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Swaich, Advocate,
for the appellants.

Mr. Sanjay Jain, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J.

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

Plaintiff had filed a suit for declaration claiming that the property is ancestral and, therefore, the decree suffered by his father dated 01.05.1989 and Will dated 18.11.1987 is not binding on his rights.

Defendant on the other hand, contested the suit and submitted that parties had separated and plaintiff was given his 1/7th share vide registered document dated 19.07.1974, i.e. the registered gift deed. Thereafter whatever was left out that cannot be treated as an ancestral property.

After appreciating the evidence available on the file, both the Courts have concurrently found that in view of the relinquishment deed duly signed by the plaintiff dated 19.07.1974, the property left in the hands of the family cannot be said to be ancestral Joint Hindu Family Property.

Learned counsel for the appellants has vehemently argued that this memorandum of partition was carried out by taking into consideration the share of the daughters (sisters of the plaintiff). However, now the sisters have not opted to take any share, therefore, the plaintiff is entitled to 1/3rd share of the property.

I have considered the submission of learned counsel for the appellants and with his able assistance gone through the judgments passed by the Courts below.

Ex.D8, which is a relinquishment deed, would prove that the plaintiff had separated from the family and he was given his share through registered gift deed dated 19.07.1974. Once the plaintiff had separated from the family and he had executed a relinquishment deed admitting that now he has not left with any right, title or interest with the remaining property of the family, then he has no locus standi to file a suit claiming the remaining property to be ancestral.

For the reasons recorded above, I do 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.

October 04, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No