

RSA No.1620 of 2014 (O&M)
RSA No.1625 of 2014 (O&M)
RSA No.1630 of 2014 (O&M)

-1-

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

1. RSA No.1620 of 2014 (O&M)
Date of decision : 02.08.2017

Virender Singh

...Appellant

Versus

Ashok Kumar Sarwal and another

...Respondents

2. RSA No.1625 of 2014 (O&M)
Date of decision : 02.08.2017

Virender Singh

...Appellant

Versus

Ashok Kumar Sarwal and others

...Respondents

3. RSA No.1630 of 2014 (O&M)
Date of decision : 02.08.2017

Virender Singh

...Appellant

Versus

Ashok Kumar Sarwal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Lalit K. Gupta, Advocate for the appellant.

Mr. A.P. Bhandari, Advocate for the respondents.

ANIL KSHETARPAL, J.

By this order, I shall dispose of three Regular Second Appeals bearing Nos.1620, 1625 and 1630 of 2014.

The plaintiff had filed three civil suits bearing Nos.47/CS of 2005, 48/CS of 2005 and 235/CS of 2005 and the suits were disposed of by the same Judge vide decision dated 28.03.2012. In fact, one judgment was passed in Civil Suit Nos.48/CS of 2005 and 235/CS of 2005 whereas in third suit which is only for permanent injunction i.e. Civil Suit No.47/CS of 2005, a separate judgment was passed by the same Judge on the same date. The learned First Appellate Court has also similarly disposed of all the three appeals by a separate judgments passed on the same day.

The plaintiff is in Regular Second Appeal against the judgment passed by the trial Court affirmed in appeal by the First Appellate Court.

The facts are being taken from RSA No.1620 of 2014. The plaintiff had filed a suit for declaration alleging that the property is ancestral Joint Hindu Family Property and he has a right in the property by birth. The plaintiff claims that his father Gulab Singh lost his eye sight and also remains mentally disturbed. He further claims that Gulab Singh remains under the influence of the intoxicants and is victim of other vices of the society. It is further pleaded that Gulab Singh had got executed various sale deeds without legal necessity of the joint hindu family and, therefore, the aforesaid sale deeds are not binding on the rights of the plaintiff.

The defendant Nos.1 to 3 filed written statement contesting the suit. It was further claimed that the suit is barred under Order 2 Rule 2 CPC.

It was further claimed that the property is not Joint Hindu Family Property. Gulab Singh was exclusive owner and he has sold the property through registered sale deeds. They also took a stand that there was a poultry farm and two rooms in dilapidated conditions which have been renovated by the defendants after the sale deed was executed.

The defendant No.4-Gulab Singh filed a separate written statement and supported the case of the plaintiff.

The learned trial Court after appreciating the evidence available on the file dismissed the suit filed by the plaintiff. The plaintiff filed the first appeal which has also been ordered to be dismissed after re-appreciating the evidence available on the file.

Learned counsel for the appellant has submitted that the property is ancestral in nature and the findings of the Courts are erroneous. Counsel for the appellant has referred to pedigree table as reproduced in the grounds of appeal. In the pedigree table, it has been shown that Kahan Singh was original owner. After the death of Kahan Singh, the property was inherited by Smt. Basanti Devi, the widow. It is further shown that after Basanti Devi, property was inherited by Chanan Singh and from Chanan Singh, the property came to Gulab Singh. However, the trial Court has found that pedigree table as shown is contrary to the facts as given in the plaint. In the plaint, Gulab Singh shown to be son of Chanan Singh and Chanan Singh is shown to be son of Bir Singh. The trial Court has further recorded that the plaintiff has not been able to clarify whether he has connected himself to Bir Singh or Chanan Singh.

In any case, the ancestral nature of the property is not proved.

Even the plaintiff has not been able to establish that Gulab Singh was habitual drunkard or was addicted to intoxicant.

In this case, Gulab Singh executed the sale deeds on 04.10.2000, 16.02.2001 and 30.04.2001 whereas the suit was filed on 20.09.2005.

For the reasons recorded above, I do not find any reason to interfere with the concurrent findings of fact.

Counsel for the appellant has not been able to point out any substantial question of law involved in the present appeals.

Counsel for the appellant has further not been able to point out any ground which may enable this Court to interfere in terms of Section 41 of Punjab Courts Act, 1918 in the concurrent finding of fact arrived at by the Courts below.

Accordingly, all appeals are dismissed.

02.08.2017

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**