

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

RSA No.5455 of 2015 (O&M)
Date of Decision:11.08.2017

Ram Niwas

...Appellant

Versus

Halqa Patwari and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Himanshu Puri, Advocate for
Mr. J.S. Ghuman, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff/appellant is in Regular Second Appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff had filed a suit for declaration claiming that he is owner in possession of the land fully described in the plaint. It was the case of the plaintiff that he was adopted by Sh.Pokhar orally, who expired on 07.12.1974. He further claimed that the mutation of land in favour of Basanta as adopted son of Pokhar was illegal. It may be noticed that Basanta is father of the plaintiff.

Only two officials of the Haryana State were impleaded as defendants. Both the defendants were proceeded against ex parte. After appreciating the ex parte evidence available on the file, the learned trial Court dismissed the suit on the ground that the mutation which is challenged shows that the owner of the property is Siri Ram. However, Siri

Ram has not been impleaded as party-defendant. The Court held that Siri Ram was necessary party and, therefore, the suit filed by the plaintiff was ordered to be dismissed.

Plaintiff-appellant filed first appeal. Learned first Appellate Court after reappreciating the evidence available on the file, has further recorded a finding that the plaintiff has challenged the mutation sanctioned in favour of his father Basanta from Pokharmal. Further the plaintiff has not impleaded the 3 daughters of Basanta, namely, Geeta, Krishan and Saroj and 2 more sons Jai Bhagawan and Babu Lal. The learned first Appellate Court also dismissed the appeal on the ground that the suit is bad for non-joinder of parties.

I have heard the learned counsel for the appellant and with his able assistance gone through the paper book. Although, learned counsel for the appellant has tried to impress upon that neither Siri Ram nor daughters and other sons of Basanta are required to be party, however, I am unable to agree. In the present case, the plaintiff filed a suit only by impleading two officials of Haryana State as party defendants. The rights of private persons were likely to be affected, if plaintiff is to be granted any relief. Such private persons have not been added as party.

Therefore, finding no reason to interfere with the concurrent finding of fact recorded by the Courts below, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

11.08.2017

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