

101

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

**RSA No.3680 of 2014 (O&M)
Date of Decision: 21.11.2017**

Amarjeet Singh

.....Appellant

Vs

Balwant Singh and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ashok Arora, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1] Plaintiff is in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration, possession and permanent injunction.

[2]. Brief facts are that the plaintiff filed a suit on the ground that father of the plaintiff namely Bhag Singh was owner of the suit properties in question. The properties were claimed to be ancestral in nature which were inherited by Bhag Singh from his father Sunder Singh. Bhag Singh died on 05.03.2005. The parties were governed by the Customs. Bhag Singh was claimed to be man of vices and he had one concubine Gurnam Kaur widow of his brother. Release deed No.3080 dated

21.03.2003 was executed by father of the plaintiff in favour of defendants No.1 to 4. Vide civil Court decree dated 03.09.1990 passed in civil suit no.1144 titled '*Balwant Singh etc. vs. Bhag Singh etc.*' the land was given in favour of defendants No.1 to 4. All the transfers were claimed to be illegal, null and void as in view of Custom, the land/property could not be transferred without the consent of heirs and without legal necessity and the *Karta* was not competent to alienate the same. Defendants No.1, 2 and 4 inter se suffered a civil court decree dated 19.09.1995 in civil suit No.1679 titled '*Balwant Singh etc. vs. Surjeet Singh*'.

[3]. I have heard learned counsel for the appellant.

[4]. Defendants No.1 to 4 were found to be legitimate sons of Bhag Singh and were held entitled to inherit the property of Bhag Singh. The issue has been squarely settled by judgment of the Hon'ble Apex Court in **Revanasiddappa & another vs. Mallikarjun & Ors., Civil Appeal arising out of SLP(C) No.12639 of 2009** decided on 31.03.2011 wherein it was observed that if the children born out of a marriage which is a nullity on the ground of being not in conformity with Section 5 of the Hindu Marriage Act, 1955, have been declared legitimate by dint of Section 16, then they cannot be discriminated against and they will be at par with legitimate children and be entitled to

all the rights in property of their parents, both self acquired and ancestral. The said ratio would adjudicate the controversy to the hilt and no issue can be raked up thereafter.

[5]. In view of above, no question of law worth consideration is involved in the present appeal and the same is dismissed accordingly.

November 21, 2017

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No