

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

RSA No.3915 of 2014 (O&M)

Date of decision :10.08.2017

Ranjit Singh

...Appellant

Versus

Didar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kartik Gupta, Advocate
for the appellant.

ANIL KSHETARPAL, J. (Oral)

CM-9040-C-2014

Application allowed.

Delay of 28 days in re-filing the appeal is condoned.

CM-9920-C-2017

Allowed.

The Will is taken on record.

RSA-3915-2014

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

Dispute is with regard to property left by Sh. Dev Raj, who was father of plaintiffs and defendant-appellant. The Courts below have found that as per the Will dated 11.09.1987, the parties to the suit are entitled to inherit property.

Learned counsel for the appellant has submitted that in the previous litigation filed by late Sh. Dev Raj, father of the parties, it is only

the appellant who had spent the amount and paid loan to the bank. It is, further, submitted by learned counsel for the appellant that it is only the appellant who had filed regular second appeal and special leave petition before the Supreme Court. He has further submitted that the suit filed by the plaintiff is barred by time as mutation with respect to the property in dispute was sanctioned in his name in the year 1998.

I have carefully considered submissions, however, I am unable to agree.

Previous litigation was filed by late Sh. Dev Raj, challenging the conditional sale deed executed in favour of Harbans Singh. During the pendency of the proceedings, Dev Raj died. After the death of Dev Raj, appellant being one of the legal heirs filed regular second appeal and thereafter special leave petition before the Supreme Court. Remaining legal heirs were also parties to the litigation.

Once appellant has failed to prove that there was any oral understanding that the property would exclusively vest with the appellant, the contention of the appellant has to be rejected. Merely because the appellant had helped his father and continued with the litigation, that, itself would not give appellant exclusive right over the property.

Learned counsel for the appellant has also submitted that the suit filed by the plaintiff was barred by time as mutation was sanctioned in the year 1998 whereas the suit was filed in the year 2003. I am afraid even this argument cannot be accepted because mutation is sanctioned only for fiscal purpose. Mutation does not give rise to cause of action for filing the suit. Any change in the revenue record cannot be taken as starting point for

start of the limitation. The present suit is for claiming right on the basis of inheritance. There is a Will executed by the testator in favour of the parties to the suit. Mutation of land is only executive function of the revenue officials to correct the records.

For the reasons recorded above, the appeal is dismissed.

10-08-2017
Jyoti iii/sheetal

(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No