

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3914 of 2017 (O&M)
Date of Decision: 28.08.2017

Hardeep Singh

... Appellant

Versus

Jasvir Singh

... Respondent

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vinay Kumar Gupta, Advocate,
for the appellant.

RAJIV NARAIN RAINA, J.(Oral)

1. No documentary proof of alleged family settlement was produced on record as a defence to the suit by the defendant, who is in appeal. Therefore, it cannot be said that the partition based on a family settlement has taken place and property divided according to the wishes of the owner Jeet Singh.

2. Jeet Singh died intestate. Jeet Singh's sons are the plaintiff and the defendant fighting over the 3rd shop in which their father did business. Jeet Singh had three shops one each for his son and one for himself which adjoined each other. The plaintiff/respondent claimed half share in the suit shop which he had every right to. The appellant who was the defendant claimed ownership over the plot in terms of a family settlement which allegedly gave the shop to the defendant and a car to the plaintiff by way of the settlement. Since the family settlement has not been produced in evidence and proved on file, the bald plea on settlement binding on the

parties cannot be believed or relied upon to govern the property rights of the parties over the corpus in the litigation.

3. In any case, no prudent person dividing his property to his sons will give valuable immovable property to one son and in lieu thereof a motor vehicle to the other son as one of equal value. This would be an unfair exchange of movable and immovable property.

4. Having heard the learned counsel for the defendant-appellant, I am of the considered view that the suit has been properly decreed and the appellant has not shown even an iota of evidence in exclusive right to suit property except a claim thereon to half share that property as per natural succession. The lower courts have rightly disregarded the plea of oral family arrangement of entire family corpus, when not reduced in writing.

5. This is a frivolous appeal which is completely devoid of merit and it is accordingly dismissed with costs of ₹20,000/- to be paid to the Punjab Legal Services Authority within three months from the date of issue of certified copy failing, failing which the authority will realize the costs as arrears of land revenue. Copy of this order be sent to the Authority.

(RAJIV NARAIN RAINA)
JUDGE

28.08.2017
manju

Whether speaking/reasoned *Yes*

Whether reportable *No*