

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-6551-2018 (O&M)

DATE OF DECISION: OCTOBER 16, 2018

ARUN WALIA

...PETITIONER

VERSUS

SUDERSHAN WALIA & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

PRESENT: MR. J.S. THAKUR, ADVOCATE FOR THE PETITIONER.

AMOL RATTAN SINGH, J.(ORAL)

CM-22522-2018

By this application, advancement of the date of hearing in the accompanying petition is sought, on the ground that the case is ripe for arguments before the learned appellate Court tomorrow, i.e. .17.10.2018.

No notice having been issued in the accompanying petition, the application is allowed and the petition is taken up for hearing today itself.

CR-6551-2018

On September 28, 2018, the following order had been passed:-

“Learned counsel for the petitioner would take instructions as to who the remaining 19 marlas of the suit property, as are alleged to have not been allotted to the father of the parties, belong to.

Adjourned to 31.10.2018.”

Today, on a query to learned counsel, he submits that though the late Sh.Lahori Lal, father of the parties to the *lis*, had been allotted only 16 marlas of land as an immigrant from Pakistan, the remaining 19 marlas not being in his ownership, cannot in any case devolve upon the respondents

herein.

Upon specific query as to whether any plea had been taken by the petitioner-defendant that Sh.Lahori Lal was not in occupation of the remaining 19 marlas as were not actually allotted to him, he had no option but to admit that all 35 marlas stood occupied by Sh.Lahori Lal during his lifetime.

That being so, simply because the contention is that he legally owned only 16 marlas and not 35 marlas, in the opinion of this Court, the occupation of the father of the parties on the entire 35 marlas, inter se each other, cannot exclude inheritance to such possessory rights over the suit property, with of course the rights of any the third party to the excess area (if it is found to be in excess of the legal ownership of Sh.Lahori Lal), obviously not to be effected by any finding of this Court or the Courts below, if such persons are not parties to the *lis*.

Consequently, finding no merit in this petition, it is dismissed in *limine*.

However, the observations made hereinabove are only in respect of the right of natural intestate inheritance by the legal heirs of Sh.Lahori Lal to all 35 marlas of the suit property admittedly occupied by him during his lifetime, with it not to be taken by the learned appellate Court that this Court has made any observation otherwise, on the merits of the claim of the parties qua the suit property.

October 16, 2018
Gulati/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether Reportable : Yes
Whether Speaking/Reasoned : Yes