

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

1. R.S.A No. 4063 of 2012

Amarjeet SinghAppellant

versus

Gurcharan Singh and ors. ...Respondents

2. R.S.A No. 4064 of 2012

Amarjeet SinghAppellant

versus

Gurcharan Singh and ors. ...Respondents

Date of decision : 22.01.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Kundu, Advocate
for the appellants

Ms. Sunita Nambiar, Advocate
for respondent No. 2

Mr. B.S. Dhillon, Advocate
for respondent No. 1 and 3.

RITU BAHRI, J. (Oral)

This order of mine shall dispose of the above two appeals wherein challenge is to the concurrent finding of facts recorded by both the Courts below dismissing the suits of the appellant-plaintiff (for short 'appellant').

The appellant by way of two different suits bearing No. 604 and 46 of 2003 has assailed two release deeds dated 13.06.2003 and 25.07.2003 which was being executed by defendant No. 4 in favour of defendant Nos. 1 to 3 in respect of land measuring 23 kanals 07 marlas and

17 kanals 19 marlas.

Brief facts of the case are that the appellant has averred that he is real son of daughter of defendant No. 4 and defendant Nos. 5 to 7 are his real sisters. Thus, there is blood relations between the parties. The property is ancestral and release deeds executed by defendant No. 4 in favour of defendant Nos. 1 to 3 has been done secretly and thus, are null and void.

Both the Courts below dismissed the suits of the appellant and observed that it is not in dispute that the appellant is related to defendant No. 4 by blood relation as defendant No. 4 had a daughter Bachni Devi, who gave birth to the appellant. The appellant is class I heir. However, it has been held that the property qua appellant is not an ancestral property. Further appellant in his cross examination has admitted that his voter card and ration card are prepared for village Nathori. His village is at a distance of 40 km from village Dadupur Jattan. He is residing in village Nathori while Girdhari was residing with his nephews in village Dadupur Jattan. He is not in possession of any document to prove his residence in village Dadupur Jattan. The appellant is not a direct kale ancestor. The appellant being maternal son of Girdhari has no pre-existing right in the suit property and defendant No. 4 Girdhari was competent to deal with the property. The plea of fraud and misrepresentation is also not available to the appellant because Girdhari while appearing in the witness box had deposed that he had executed the release deeds in question in favour of defendant Nos. 1 to 3 and even besides that he had also executed a will in their favour.

Girdhari himself stated in his deposition that he was residing with his nephews who used to look after him. They also used to cultivate his agricultural land. He has executed release deeds in their favour. This

statement of Girdhari demolishes the claim of the appellant regarding the suit property and belies his plea that he was not able to understand the facts. No evidence was placed on the file to show that Girdhari was not in dispose state of mind at the time of execution of transferring his property in the name of defendant Nos. 1 to 3.

The finding of facts recorded by the learned trial Court was rightly upheld by the Lower Appellate Court, as in the present case, the present-appellant has miserably failed to prove on record that he was having any right in the property which was not ancestral in nature.

Accordingly, the concurrent findings of facts recorded by both the Courts below does not require any interference by this Court.

No substantial question of law arises for adjudication by this Court.

The appeals are dismissed.

22.01.2018
G Arora

(RITU BAHRI)
JUDGE