

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4568 of 2012
Date of Decision:23.05.2018

Rohini @ Amrendoo

.....Appellant

Vs.

Suresh Dagar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.B.D.Sharma, Advocate, for the appellant.

Mr.Akshay Bhan, Senior Advocate, for
Mr.Alok Mittal, Advocate, for the respondents.

RITU BAHRI, J. (ORAL)

Appellant has come up in appeal against the judgements of the trial court dated 01.09.2010 and learned appellate Court dated 02.06.2012 whereby suit filed by the plaintiff for permanent injunction has been decreed.

The brief facts of the case are that plaintiffs are legal heirs of Col.Narbir Singh who was recorded as owner in possession of the suit land have become owner of the land in dispute and the defendant Smt.Sumitra Chaudhary has no right, title and interest in the same. It is further submitted that previously Sh.Narbir Singh son of Sh.Dalip Singh was recorded as owner in possession of the suit land who died on 20.06.1998, leaving the plaintiffs as his only legal heirs as his wife Smt.Omkari Devi, the mother of the plaintiff had died during his life time. Thus, plaintiffs inherited the suit land. It is further maintained that somehow defendant Sumitra had developed legal intimacy with the father of the plaintiffs by taking advantage

02.10.1996 with regard to the suit land in case titled as Sumitra Chaudhary Vs. Narvir Singh from the Court of Sanjeev Jindal. This decree was illegal null and void and liable to be set aside because in that suit defendant claimed herself to be wife of Narbir Singh whereas late Narbir Singh never entered into second marriage with defendant and this decree is based on fraud and mis-representation and concealment of material facts. Secondly, this story of family settlement was false because Narbir Singh could not enter into any family settlement without making plaintiffs as the parties of such family settlement. During the pendency of the suit defendant-Sumitra died and Smt.Amrendoo had filed an application to implead herself as legal heir of Smt.Sumitra on 10.04.2001.

Both the Courts have given their concurrent findings of fact that in order to substantiate her claim Ex.R1 and Ex.R2 date of birth certificates of Amrendoo are pressed upon. But as per report Ex.P2 the address given on these documents was found false as no house was situated at that address. The aforesaid documents have come into existence after death of Narbir and Sumitra. As far as Ex.R10 is concerned, the name of child born to Narbir was shown as Rohini and in a bracket name of Amrendoo was mentioned. There was also an overwriting in the column of date of birth. It was also mentioned in Ex.R10 that the informant about birth are Risal Singh and Dhanwanti. However, none of the aforesaid witnesses were examined to prove date of birth of defendant as per Birth & Death Registration Act Ex.P13 which was a letter issued by Army Department also does not found mentioned name of Amrendoo as daughter. Will dated 05.06.1995 specifically states that Narbir Singh was having three daughter in addition to

Singh in a criminal proceedings is concerned, Ex.R18 shows that Amrendoo studied upto 7th standard and promoted to next standard. However, she was shown to be resident of UP. Thus Ex.R18 was altogether contrary to other school record placed on file which are Ex.R19 to Ex.R26 which were regarding studying of appellant from 3rd standard to 9th standard. Even the school authorities had written a letter that no such document as Ex.R-18 exist in the name of Amrendoo. On fact is also relevant which has rightly been discussed by the learned trial court that Amrendoo appellant was not claiming her right with regard to the property owned by Sumitra at Mujaffar Nagar as mutation of inheritance was sanctioned in the name of her brothers and this fact also creates a grave suspicion. Therefore, learned trial Court has rightly discussed the entire evidence and concluded that Amrendoo was not daughter of Sumitra. As far as findings of learned trial Court on issues No.1 and 2 are concerned, as per Will dated 05.06.1995, Narbir Singh had admitted that Sumitra was his wife. The marriage certificate also goes to prove this fact. It is also proved that Smt.Sumitra was taking family pension after the death of Narbir Singh and this fact is duly established from Ex.P10 to Ex.P13. Therefore, it was quite clear that Smt.Sumitra and Narbir Singh were living together as husband and wife and were considered as such by their acquaintance and the department in which Narbir Singh was serving and later on retired. If it so, Smt.Sumitra being wife of Narbir Singh was competent enough to enter into a family settlement which was later on affirmed by the Civil Court vide judgment and decree dated 22.10.1996. Thus, the findings recorded by the learned trial Court has been affirmed by the learned appellate Court.

of 2011 which has been dismissed by the Co-ordinate Bench of this Court on the basis of documents which was found to be fake as these documents had been created to only substantiate the claim of the appellant. Against this judgment, an SLP (Civil)23730 of 2012 was dismissed by giving her liberty to file a review application before this Court. The review application i.e. RA No.64 of 2013 was also dismissed on 27.02.2018 being meritless.

So in the light of the discussion, the orders of the Courts below do not reflect any material irregularity or perversity which warranting interference. No question of law, much less substantial question of law, arises for determination in this second appeal. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

23.05.2018

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No