

In the High Court of Punjab and Haryana at Chandigarh

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RSA No. 2718 of 2013 (O&M)

Date of decision: 14.8.2018

RAGHBIR SINGH AND OTHERS

.....appellants

Versus

AMARJEET SINGH AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Amit Jain, Advocate,
for the appellants

Mr.Amarjit Markan, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J (oral)

CM No.10798-C of 2018

Present application has been filed for disposal of the appeal, which was admitted on 9.7.2015.

Both the parties are ad idem that an amicable settlement has been reached between the parties on 3.1.2017 and this appeal be disposed of in terms thereof. Copy of the compromise has been attached as Annexure C-1.

For the reasons mentioned in the application, the main case is taken up for hearing today.

Application stands disposed of.

RSA No. 2718 of 2013

Civil suit for declaration and permanent injunction was filed by three plaintiffs, namely, Amarjeet Singh, Gurjit Singh and Gurmeet Singh, sons of Darshan Singh against Raghbir Singh and others. Defendants No.2 and 5 did not appear before the trial Court and were proceeded against ex parte. Defendants No.3 and 4 of course appeared before the trial Court, but they made a statement and did not claim any right in the suit property.

Trial Court partly decreed the suit, declaring Gurjit Singh to be joint owner in possession to the extent of 1/3rd share on the basis of Will dated 27.1.1982. He was held joint owner in possession of 1/3rd share, which was also owned and possessed by Jaswant Singh deceased. Defendants were restrained from alienating the said share in any manner by way of permanent injunction. The claim of plaintiffs No.1 and 3 in respect of the suit property was not adjudicated upon for want of proof of authorisation by them in favour of Joginder Singh. It was observed that the same had to be adjudicated upon as and when the suit is filed by plaintiffs No.1 and 3 either personally or through authorised person.

Appellant Raghbir Singh (defendant No.1) and the plaintiffs filed two separate appeals before the lower Appellate Court. Both the appeals were decided vide common judgment

and decree. The appeal filed by Raghbir Singh was dismissed, whereas, appeal filed by the plaintiffs was accepted and the suit was decreed in toto. Hence, defendant No.1 along with defendants No.3 and 4 has preferred this Regular Second Appeal.

Since Avtar Singh and Surjit Singh @ Jit Singh had already relinquished their rights before the trial Court, therefore, for all practical purposes, the appeal has to be considered on behalf of Raghbir Singh. Even the applications for deletion of their names have already been filed by the plaintiffs.

During pendency of the present appeal, both the parties have amicably settled their dispute as per compromise dated 3.1.2017 (Annexure C-1). The recital of the compromise is to the following effect:-

“ Whereas a civil litigation qua the land left by late Jaswant Singh, son of Tahkur Singh, resident of Village Domeli, Tehsil Phagwara, District Kapurthala is pending between the parties to this compromise. The party of the second party filed suit claiming right to the property left by Sh.Jaswant Singh on the basis of Will dated 27.1.1981 executed by Jaswant Singh. The said suit was decreed by the court of Ld. Additional District Judge, Kapurthala vide judgment and decree dated 15.5.2013. The cross appeal by

Amarjeet Singh and Gurmeet Singh was accepted and appeal of first party was dismissed. The said judgment has been challenged by the first party in the Hon'ble High Court of Punjab and Haryana at Chandigarh. The appeal is pending adjudication in the Hon'ble High Court. The parties to this lis are closely related to each other. Jaswant Singh deceased was brother of first party and uncle of second party and maternal uncle of the third party. With the intervention of respectable and elders, a compromise has been effected between the parties. The third party as per compromise have not to take any share out of the estate of Jaswant Singh. In fact they made statement in the court that the property left by S. Jaswant Singh be given to first and second party and later they did not appear in the case. Now as per compromise, it has been decided that first party shall get land left by S.Jaswant Singh i.e. out of the suit property which comprise khasra Nos. 56//23/2 and 71//2. The remaining land left by S.Jaswant Singh shall be owned by the second party. The first and second party also owned land at their own right which has been joint with the land of Jaswant Singh. So as per this compromise, it has been settled

between the parties that the total land owned by first party including land came from Jaswant Singh shall comprise Khasra Nos. 56//23/2, 71//2, 71//3, 71//9 and 71//8 and the total land owned by second party (which includes the land came from the estate of Jaswant Singh) shall comprise Khasra Nos. 56//11, 56//12, 56//13, 56//19, 56//18, 56//22, 56//23/1. The land owned by first party has been shown in blue colour in the site plan attached and the land owned by second party is shown with yellow colour in the site plan attached. Now as per the compromise, both the parties shall not interfere in the land owned by the other party respectively.”

As per the aforesaid compromise, the land shown in blue colour in the site plan (Annexure C-2) attached with the compromise (Annexure C-1) would go to Tarlochan Singh and Jaspal Singh, legal representatives of Raghbir Singh. The land shown in yellow colour would go to plaintiffs-respondents No.1 to 3.

Statements of the parties have been separately recorded as a token of confirmation to the aforesaid compromise.

In the light of the compromise entered into between the parties, which has been duly endorsed by the parties in

person, I deem it appropriate to dispose of the appeal.

Accordingly, the present appeal stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

August 14, 2018
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Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No