

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

RSA No.1014 of 2016 (O&M)

Date of decision:19.11.2018

Jeo (since deceased) through LRs ... Appellant

Vs.

Kartar Singh and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.K.Arya, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

The appellant-plaintiff has not been able to succeed in seeking declaration of having become owner in joint possession of land measuring 72 kanals 8 marlas to the extent of 1/7th share by laying challenge to the mutation bearing no.2104 on the basis of exchange deed.

It was alleged that Kartar Singh and Jeo being brother and sister were son and daughter of Rur Singh. The defendants got the alleged mutation in respect of land measuring 11 kanals 4 marlas as land measuring 9 marlas bearing khasra no.84R/28/1 out of the total land, was only given. The alleged exchange deed dated 01.12.1987 was forged and illegal and thus, cause of action arose to file the suit.

The defendants opposed the suit by supporting the exchange deed. It was alleged that original exchange deed was with the plaintiff as the mutation was sanctioned long time back. Since then the parties were in

respective possession and cultivating the land despite that Jeo did not lay any claim till 2003 when suit was filed.

On preponderance of the evidence, the trial Court dismissed the suit and appeal was also met with the same fate.

Mr. R.K.Arya, learned counsel appearing on behalf of the appellant-plaintiff submitted that genesis of judgments and decrees of the Courts below has been that plaintiff failed to prove on record the exchange deed but the onus was upon the defendants having relied upon the same. In its absence, adverse inference was liable to be drawn against them. During the pendency of the suit, Jeo, daughter of Rur Singh, sister of defendant died and the appellant-plaintiff(s) being children are her successor-in-interest. There is no limitation when the right in the property is asserted, on the basis of inheritance.

I am afraid the aforementioned argument is not sustainable in the eyes of law, for, it is not a case where plaintiff had simpliciter claimed the declaration on the basis of natural succession but emphatically laid challenge to the exchange deed being registered document, thus, onus heavily laid upon the plaintiff to discharge. Having failed to do so, the findings of facts and law arrived cannot be said to be infirm. No explanation has come forth that how and under what circumstances, the plaintiff was deprived of 11 kanals 4 marlas of land and remained silent till 2003. Even the plaintiff vide registered document sold the parcel of land in the year 2003.

As an upshot of my findings, I do not find any illegality and perversity in the judgments and decrees under challenge which are based upon the appreciation of oral and documentary evidence, much less no substantial question of law arises for adjudication of the present appeal.

Resultantly, the appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 19, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No