

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

RSA No.12 of 2016 (O&M)
Date of Decision.31.10.2018

Bhal Singh and others

....Appellants

Vs

Ram Lal (deceased) through LRs and another

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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

:-

AMIT RAWAL J. (ORAL)

The appellants-plaintiffs have not been successful in claiming declaration to be owner in possession in equal share of half share of land measuring 49 kanals 2 marlas (hereinafter called the suit land) being successor-in-interest of Gulab son of Peeru Ram @ Hari Ram by laying challenge to the mutation dated 07.06.1910 of Peeru son of Panna in favour of Mandroop whereas it should have been Mandroop and Gulab. It was alleged that Peeru @ Hari Ram was in possession of the suit land as *gair maurshi* and became owner of the property by virtue of law and after his death, the suit land was inherited by his two sons Gulab, father of the plaintiffs and Mandroop, father of the defendant. Mutation of inheritance was to be entered accordingly as per the natural succession but it continued in the name of Mandroop, therefore, the entries were required to be corrected.

The defendant opposed the suit by supporting the mutation of inheritance in favour of Mandroop and also taken the objection of estoppel and concealment of true facts, much less,

limitation.

On preponderance of evidence, the trial Court dismissed the suit and the appeal laid before the lower Appellate Court was also dismissed.

Mr. Ajay Jain, learned counsel appearing on behalf of the appellants-plaintiffs submitted that the Courts below erred in holding Gulab not to be son of Peeru whereas, failed to take into notice evidence of PW1 and PW2, who had proved the bank account opened in August, 1985 and pension record wherein it is clear that father name of Gulab has been mentioned as Peeru Ram. Voter list, Ex.P9 was prepared in 1995 showing name of the father of Gulab as Hari Ram, for, Peeru Ram was also known as Hari Ram. There is no limitation to claim the right or title in the suit property and thus, there is abdication and perversity.

I have heard learned counsel for the appellant and appraised the paper book. There is no direct compliance of provisions of Section 50 of the Indian Evidence Act. On the contrary, Ex.D1 to D5 i.e. jamabandis for the years 1941-42, 1957-58, 2007-08 and mutation No.138 dated 7.06.1910 and 215 dated 17.2.1941 brought on record proved land in the name of Peeru Ram and thereafter in the name of Mandroop. During all this period and during life time of Gulab, no challenge was laid to such entry. The plaintiffs have miserably failed to prove that Gulab was actually son of Peeru Ram. In the absence of the same, the suit has rightly been dismissed. Mentioning of the name of father as Peeru Ram in the bank account and other pension record was not sufficient. Relation of

the parties which is mandate of Section 50 of Indian Evidence Act was required to be proved. Pedigree table extracted in the grounds of appeal was self-serving statement not backed by any revenue record.

As an upshot of my finding, I do not find any illegality and perversity in the judgments and decrees passed by the Courts below, much less, involvement of any substantial question of law. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

October 31, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No