

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

**RSA No.1787 of 2016 (O&M)
Date of Decision.20.11.2018**

Amarjit Singh

...Appellant

Vs

Darbara Singh alias Dalbara Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Dhawan, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The appellants-plaintiffs have not been successful in claiming ownership by way of declaration to the extent of half share along with defendants No.8 to 13 and defendants No.14 to 17 of land measuring 12 kanals 7 marlas on the basis of registered sale deed dated 18.07.1959 executed by Charna, predecessor in interest of defendant Nos.1 to 7 in favour of Piara Singh, Karnail Singh and Malkeet Singh. The plaintiffs and defendant Nos.8 to 17 are legal heirs of Piara Singh, Karnail Singh and Malkeet Singh. Mutation in this regard was also sanctioned but the revenue record did not show any such fact.

Only defendants No.1, 4 to 6 contested the suit.
Remaining were ex parte.

On preponderance of evidence, the trial Court dismissed the suit. The lower Appellate Court did not find favour with the appellant-plaintiff.

Mr. Amit Dhawan, learned counsel appearing on behalf of the appellant-plaintiff submitted that genesis of the judgment and

decree dismissing the suit was that identity of the property could not be proved. It was an old property and therefore, the dimensions kept on changing. Another ground for rejection of the suit was that inadvertently, instead of Amarjit Singh, word “Darbara Singh” had been mentioned, which was a clerical mistake.

I am afraid aforementioned argument of Mr. Dhawan is not sustainable vis-à-vis identity of the property, for, it was obligatory upon the plaintiff to connect the property to 1959 and till filing of the suit in 2007, either through demarcation report or revenue record. In the absence of the same, it could not be believed that the claim staked was in respect of the property reflected in the sale deed of 1959 or otherwise. It is strange that the parties remained silent for such number of years without inspecting the revenue record. Doctrine of acquiescence would definitely be applicable in such circumstances.

In such circumstances, I cannot find fault with the concurrent finding of fact rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal stand dismissed.

(AMIT RAWAL)

JUDGE

November 20, 2018

Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No