

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

**RSA No.2005 of 2016
Date of decision: 09.01.2018**

Manjit Kaur and another

...Appellants

Versus

Mohinder Kaur

...Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vipin Mahajan, Advocate,
for the appellants.

Ritu Bahri, J.

CM No.5307-C of 2016

In view of the averments mentioned in the application, same is allowed and delay of 19 days in filing of the appeal is condoned.

RSA No.2005 of 2016

This appeal has been filed against the judgment dated 03.09.2015 passed by the Additional District Judge, Gurdaspur, dismissing an appeal filed by plaintiff-appellants against the judgment and decree dated 27.05.2013 passed by the Civil Judge (Senior Division), Batala, whereby suit filed by plaintiff-appellants for declaration, has been dismissed.

Manjit Kaur etc.-plaintiffs (appellants herein) filed a suit for declaration to the effect that mutation No.1165 sanctioned by the Revenue Department in favour of defendant was illegal, null and void. It was stated that Manjit Kaur-plaintiff No.1 was widow and Gurleen Kaur-plaintif No.2 was daughter of Rajwinder Singh son of Santokh Singh. After the death of

Rajwinder Singh, they (plaintiffs) were his legal heirs. Defendant-

respondent is mother of deceased Rajwinder Singh and she had got her share from the estate of her husband Santokh Singh. Therefore, she was not legally entitled to get the share of Rajwinder Singh. However, mutation No.1165 has illegally been sanctioned by the revenue department in favour of defendant in connivance with the attesting witnesses. Hence, the suit.

Upon notice, defendant-respondent filed written statement by admitting that Rajwinder Singh (husband of plaintiff No.1 & father of plaintiff No.2) had died. However, it had been denied that defendant (respondent) had taken her share from the entire estate of her husband Santokh Singh. It was stated that the defendant being mother of deceased-RAJwinder Singh, was his class-I heir and as such, she was entitled to get share out of the property of her deceased-son. It was further stated that mutation No.1165 had been rightly sanctioned in her favour. All other allegations made in the plaint were denied and prayer for dismissal of the suit was made.

From the pleadings of the parties, following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled to declaration as prayed for?
OPP
2. Whether the plaintiff has got no cause of action to file the present suit? OPD
3. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit. Appeal against the said judgment also met the same fate.
Heard.

It is not in dispute that the suit property was owned by Rajwinder Singh (husband of plaintiff No.1 & father of plaintiff No.2), who has since died. Mutation of inheritance of Rajwinder Singh was sanctioned in favour

of plaintiff-appellants as well as defendant-respondent. The appellants have challenged the said mutation on the ground that mother (defendant) of Rajwinder Singh had already taken her share from the estate of her husband after his death and this share should have been mutated in favour of the plaintiffs (Manjit Kaur and Gurleen Kaur). Both the Courts below have given a concurrent finding of fact that no Will was executed by Rajwinder Singh and he had died intestate. As per Sections 8 & 9 of the Hindu Succession Act, 1956, mother falls in the category of Class-1 heir. Therefore, the mutation of inheritance qua the property left behind by Rajwinder Singh has rightly been sanctioned in favour of her mother (defendant), including the plaintiff-appellants.

After going through the impugned judgments, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

(RITU BAHRI)
JUDGE

09.01.2018
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No