

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

**RSA-2729-2016 (O&M)
Date of Decision:14.08.2018**

Charanjit Singh

... Appellant

Versus

Inderjit Singh & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. D.V. Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate for the appellant.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Plaintiff/appellant, Charanjit Singh is in second appeal before this Court having remained unsuccessful in both the Courts below.

2. Plaintiff filed a suit for declaration to the effect that he is owner in possession to the extent of half share in the suit property measuring 19 kanals, 16 marlas and as detailed in the head note of the plaint claiming the same to be ancestral coparcenary property. A Will dated 21.03.2002 alleged to have been executed by deceased father of the plaintiff qua the suit property in favour of defendants No.2 and 3 and to exclusion of the plaintiff, was also assailed. Relief of permanent injunction was also sought for restraining the defendants from alienating the suit property by way of gift, lease, exchange, mortgage, transfer etc.

3. Suit filed by the appellant was dismissed by the trial Court on 31.01.2013. Civil appeal having been preferred, the same has met the same fate vide judgment dated 18.12.2015 passed by the learned Additional District Judge, Ludhiana.

4. Learned senior counsel representing the appellant has raised a solitary submission that when defendant, Inderjit Singh appeared in the witness box, he had admitted that the suit property was inherited by Karnail Singh (deceased) from his forefathers and which in turn proves the suit property to be ancestral property. It is argued that admission is the best evidence and as such, there was no requirement and onus upon the plaintiff/appellant to have proved the suit property to be ancestral coparcenary property. No other point was urged.

5. Having heard learned senior counsel representing the appellant at length and having perused the case paper book, this Court is of the considered view that there is no merit in the instant appeal and the same deserves to be dismissed.

6. The case set up in the suit by the plaintiff was that the suit property is ancestral joint Hindu family coparcenary property entered in the name of Karnail Singh (since deceased) in the revenue records and being member of the Joint Hindu Family, plaintiff and defendant No.1 had a right by birth to the suit property i.e. half share each and to the exclusion of defendants No.2 to 6. Plaintiff had further asserted that the Will dated 21.03.2002 was forged and fabricated and is the outcome of connivance amongst defendants and to the detriment and hardship of the plaintiff.

7. Apparently, defendant/Inderjit Singh while appearing in the witness box had stated that property in dispute was inherited by Karnail Singh (deceased) by his forefathers. However, such deposition cannot be taken in isolation. In the pleadings/written statement, the defendant had taken a specific plea that the property in the hands of Karnail Singh was not

joint Hindu family coparcenary property. A further stand had been taken that the plaintiff (appellant herein) had separated from his father and he had been given his share and even a consent decree had been suffered. In any case, admission made by defendant-Inderjit Singh would not be enough to hold the suit property to be ancestral or coparcenary property. Learned senior counsel on a specific query having been put concedes that no other document/conclusive evidence had been adduced on record to establish the suit property to have been inherited by Karnail Singh from his ancestors. Furthermore, the Courts below have noticed that as per jamabandis, Ex.P1 and P-2, only Karnail Singh is reflected to be owner of the suit property.

8. Insofar as the Will dated 21.03.2002 is concerned, concurrent finding has been recorded by the Courts below that the same was duly proved upon examining attesting witness DW2 Jagdev Singh and scribe of the Will DW5 Rajinder Kumar. The Will was duly registered with the Sub Registrar concerned and a view has been taken based on cogent and valid reasoning that the same is not surrounded by any suspicious circumstance.

9. In view of the discussion above, no basis is warranted for interference in the matter.

10. The instant appeal does not raise any question of law much less substantial question of law.

11. Appeal is dismissed.

12. Since the main appeal itself has been decided, pending applications, if any, shall also stands disposed of.

14.08.2018

harjeet

(TEJINDER SINGH DHINDSA)

JUDGE

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