

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

RSA No.3472 of 2016
Date of decision: 09.05.2018

Manpreet Kaur

... Appellant

Versus

Karam Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. PS Sullar, Advocate; and
Mr. K. Arun Singh, Advocate for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff was dismissed by the trial Court, vide judgment and decree dated 15.06.2012. As even the appeal preferred against the said decree failed and was dismissed on 12.10.2015, the plaintiff is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff claimed a decree for joint possession of 1/40th share out of 1/5th share in the land described in the cause title of the plaint. Bakshish Singh son of Chajju Singh was the common ancestor of the parties. Post his death on 04.09.2002, he was succeeded to by his widow Pritam Kaur, his sons i.e. Karam Singh, Kesar Singh, Jarnail Singh and Daljit Singh, and three daughters i.e. Jarnail Kaur, Manjit Karu and Kuldip Kaur. Plaintiff happened to be the daughter of Daljit Singh. In short, the case set out by the plaintiff has been that the suit land in the hands of Bakshish Singh was a joint Hindu family coparcenary property. Therefore, all the four sons

of Bakhshish Singh had an interest/right therein by birth. And, whatever interest her late father Daljit Singh had in the suit property, the same was inherited by the plaintiff and her mother Kulvinder Kaur, post his death. Thus, the gift deed dated 19.09.2002, executed by Bakshish Singh in favour of his sons i.e. defendants No.1 to 3, was invalid and unsustainable in law.

On a consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that the plaintiff failed to substantiate her claim, for it remained unproved that the suit property in the hands of Bakshish Singh was indeed a joint Hindu family coparcenary property. For plaintiff to succeed, she ought to have brought on record a pedigree table, khatoni pamaish, khatoni istemal and excerpt report from Kanungo to show the nature of the suit land, and as to how it devolved upon Bakshish Singh. But no such evidence was led. The plaintiff examined Hazara Singh (PW1), who happened to be her guardian and next friend, but he too conceded in his cross-examination that he had no knowledge as to how late Bakshish Singh acquired ownership qua the suit property. In fact, jamabandies for the year 2003-04 (Ex.P1), 2001-02 (Ex.P2) and the mutation (Ex.P3) showed that the property belonging to Chajju Singh father of Bakshish Singh was distributed amongst his sons pursuant to a Court decree. Even otherwise, parties had entered into a compromise in an earlier suit qua the same property, and the same was dismissed being compromised. That being so, the plaintiff apparently failed to prove her case. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show that the findings recorded by both the Courts were either contrary to the record or suffered from any material illegality.

No question of law, much less any substantial question of law, arises for consideration. The appeal being devoid of merit is accordingly dismissed.

(Arun Palli)
Judge

09.05.2018
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO