IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.3994 of 2016 (O&M)
Date of decision: 01.05.2018

Sarupi and others **..... Appellants**

Versus

Ranbir Singh and others **..... Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. R.D. Yadav, Advocate
for respondents No.2 to 6.

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ANIL KSHETARPAL, J. (ORAL)

Defendants-appellants are in the regular second appeal against the concurrent finding of fact arrived at by the Courts below. All the parties to this litigation are successor-in-interest of the Singh Ram, the common ancestor. Singh Ram was having five sons namely Sedhu, Sarupa, Badlu, Sudhan and Shri Ram. Admittedly, Singh Ram was owner of property No.1 and 2 which was succeeded by all the five sons. Sedhu is stated to have died unmarried and therefore, each brother succeeded to his share to the extent of 1/4th share each. It is pleaded case that 30-35 years back, finally a settlement was arrived at and Sarupa, Badlu and Sudhan became joint owners of property No.1 whereas Shri Ram was given property No.2. Shri Ram's share is not in dispute now.

It is further the case of the plaintiff that five years back, there

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was again a family settlement in which Sarupa relinquished his share in property No.1 and was given half share in plot No.200 which was allotted to Badlu and Sudhan. It is not in dispute that legal heirs of Sarupa are residing in the aforesaid half share of the property described as plot No.200.

Both the Courts have found as a matter of fact that there was a family settlement arrived at between the parties through which the parties settled their disputes and Badlu and Sudhan jointly took over property No.1 whereas half share in plot No.200 was given to Sarupa.

Learned counsel for the appellants has submitted that exchange of 1/3rd share in the property No.1 with half share of plot No.200 is not proved on file. He submits that any transfer of title can only be through registered sale deed.

This Court has considered the submission. It was a dispute between the members of a joint family. Sarupa, Badlu and Sudhan were jointly allotted in a family settlement property No.1. In a subsequent family settlement, Sarupa gave up his share in property No.1 i.e. 1/3rd and took over half share in plot No.200. Such course in Hindu family is permissible and both the Courts have recorded a concurrent finding that such family settlement is proved on file.

Learned counsel for the appellants has further submitted that the judgment passed by the learned trial Court as well as the learned First Appellate Court are erroneous as the counter claim filed by the defendants-appellants have not been considered. This Court has considered the argument. Through the counter claim, the defendants-appellants are claiming possession of the property i.e. 1/2 share of plot No.200, apart from praying for recovery of the mense profit. Since as per the family settlement,

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the plaintiff has been held to be owner, no relief can be granted to the defendants-appellants in the counter claim.

In view thereof, there is no scope for interference with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned Yes / No

Whether Reportable Yes / No

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