

Sr. No. 102

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

**RSA No.409 of 2016 (O&M)
Date of Decision: 10.09.2018**

Harsukhpreet Singh and another

... Appellants

Versus

Avtar Singh and another

... Respondents

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

Present:- Mr. Ramesh Chand Sharma, Advocate,
for the appellants.

TEJINDER SINGH DHINDSA, J.(ORAL)

CM Nos.1212-1213-C of 2016

In view of the averments made in the applications seeking condonation of delay of 09 days in filing and 45 days in re-filing the appeal, applications are allowed.

Delay condoned.

Applications disposed of.

Main Appeal

Plaintiffs/appellants are in second appeal before this Court having remained unsuccessful in both the Courts below.

Briefly noticed plaintiffs instituted a suit for declaration to the effect that the suit land measuring 52 kanals, 1-1/3rd marla and as described in the head note of the plaint is ancestral property in the hands of Avtar Singh (defendant No.1) and plaintiffs No.1 and 2 are co-parceners to the extent of 1/2 share.

Relief of permanent injunction was also sought restraining defendant No.1-Avtar Singh from alienating the suit land in any manner to the extent of 1/2 share. Suit filed by the plaintiffs was dismissed by the trial Court on 01.05.2014 and a civil appeal having been preferred met the same fate vide judgment dated 29.05.2015 passed by the Learned Additional District Judge, Ludhiana.

Counsel for the plaintiff/appellants has been heard at length and pleadings on record have been perused.

In the considered view of this Court, no interference is warranted and the present second appeal is without merit.

Based on due appreciation of evidence adduced on record, a concurrent finding of fact has been recorded by both the Courts below to the effect that as per mutation No.11065 Ex.P-15, the property owned by Kartar Singh was sanctioned in favour of defendant/respondent Avtar Singh on 26.04.1973 on the strength of an unregistered Will dated 04.06.1972. Specific finding recorded is that respondent Avtar Singh had inherited the suit property by virtue of Will and as such property in the hands of Avtar Singh is not ancestral in nature and the same is his separate property.

Counsel representing the appellants has not been able to point out any perversity in such finding which is based upon evidence adduced on record.

There is no merit in the appeal.

Dismissed.

Since the main appeal has been decided itself, pending

application(s), if any, shall also stand disposed of.

10.09.2018

vandana

(TEJINDER SINGH DHINDSA)

JUDGE

Whether speaking/reasoned

Whether Reportable

Yes

No