

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

RSA No. 4668 of 2016 (O&M)

Date of decision : 06.09.2018

Kashmir Kaur & ors.

....Appellants

V/s

Sukhwinder Kaur & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Naresh Kaushik, Advocate for the appellants.

RAJAN GUPTA J.

Present appeal has been preferred by the appellants aggrieved by the judgments of two courts below. Learned counsel for the appellants has argued that courts below did not appreciate the evidence in correct perspective. It ignored from consideration the material facts on record while deciding the matter. Thus impugned orders deserve to be set-aside.

I have heard learned counsel for the appellants.

Brief factual background of the case is that plaintiffs filed a suit for declaration that they were owners to the extent of 1/3rd share on the basis of natural inheritance in the suit property left behind by their father Kewal Singh who died on 14.11.1997 and for setting aside mutation entry no. 2148 of village Paddi Khalsa as illegal and no binding upon on them; alternatively praying for possession over the said portion. It was further prayed that defendants should be restrained by a permanent injunction from alienating, mortgaging, selling or transferring the suit land to the extent of 1/3rd share of the plaintiffs. It is averred that Kewal Singh died intestate leaving behind

plaintiffs, defendants and a son namely Hardeep Singh as legal heirs.

However, Hardeep Singh also died intestate. It was, thus, claimed that his share was also to be inherited by remaining parties to the suit to the extent of 1/6th share each on the basis of natural succession. Suit was contested by defendants. They took number of preliminary objections. On merits, they contended that Kewal Singh during his lifetime had executed a legal and valid Will dated 14.10.1997 in favour of defendant no. 1. Thus, suit was not maintainable. On the basis of evidence led before the trial court, it found substance in the plea of the plaintiffs. It held that plaintiffs were co-owners to the extent of 1/6th share each in the suit land on the basis of natural succession and were also entitled for joint possession. It also set-aside the mutation no. 2148 and restrained the defendants from alienating or transferring the share of the plaintiffs with regard to their suit land. Findings were unsuccessfully challenged before the lower appellate court. In the instant appeal, learned counsel for the appellants has not been able to show any defect with the appreciation of evidence by two courts below. I, thus, find no ground to interfere with the same. No other substantial question of law has been urged warranting interference in the findings. I am thus of the considered view that appeal is without any merit. Same is hereby dismissed.

As the main appeal has been dismissed on merits, no order needs to be passed in the accompanying application.

September 06, 2018

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No