

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

RSA No.4710 of 2015

Date of Decision.13.11.2018

Hakam Singh

.....Appellant

Vs

Ram Lal and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. I.S. Pabla, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

C.M. No.11338-C of 2015

For the reasons stated in the application, delay of 8 days
in re-filing the appeal is condoned.

Application is allowed.

RSA No.4710 of 2015

The appellant-plaintiff has not been able to seek
declaration by laying challenge to the registered relinquishment deed
dated 16.05.2005 and 05.12.2005 executed by defendant No.2 Deva
Singh in favour of defendants No.1 and 3.

The suit was based on the ground that property subject
matter of relinquishment deed was not self-acquired but ancestral, as
it has fallen from the hands of Khusia, grand father of Deva Singh,
who had one son Rulha Ram. In support of the aforementioned
averment, jamabandis for the year 1999-2000 and 2004-2005, Ex.P3
and Ex.P4 were placed on record. The plaintiff has not been
successful before the trial Court as well as the lower Appellate Court.

Mr. I.S. Pabla, learned counsel appearing on behalf of

the appellant submitted that it has been proved on record through the aforementioned revenue record, which has gone unrebutted, that the property at the hands of Deva Singh was ancestral and the plaintiff being 4th generation in lineage had right by birth. The relinquishment deed was without legal necessity and therefore, was liable to be set aside being nullity.

I am afraid aforementioned argument of Mr. Pabla is not sustainable, for, in order to establish claim with regard to nature of the property being ancestral, it has to be prima facie proved that the plaintiff was 4th generation in lineage and his father Deva Singh had acquired the same from his grandfather Khusia. Jamabandi did not reflect the same. Mere recital in the lease deed would not clothe the status of the property being ancestral. The plaintiff miserably failed to discharge the onus.

As an upshot of my finding, concurrent finding of fact cannot be said to be suffered from illegality and perversity, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out.

Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

November 13, 2018
Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No