

RSA No. 6447 of 2016 (O&M)

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

**RSA No. 6447 of 2016 (O&M)
Date of decision: 28.5.2018**

Ram Murti

... Appellant

Versus

Mohan Lal

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Balbir Singh Saini, Advocate
for the appellant.

ARUN PALLI, J. (Oral)

The suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 1.8.2014. As even the appeal preferred against the said decree failed, and was dismissed on 18.7.2016, he is in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff prayed for a declaration that mutation No. 774 dated 22.4.1996, sanctioned in favour of the defendant, was illegal, null and avoid, and had no binding effect upon his rights. For the plaintiff too was owner in joint possession in equal share with the defendant, to the extent of the share of late Ajaib Ram in the suit property. Briefly, the case set out by the plaintiff has been that he too happened to be the son of Ajaib Ram, but

RSA No. 6447 of 2016 (O&M)

from his second wife, i.e. Luxmi, whom Ajaib Ram married after the death of his first wife-Bachni.

However, on a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that the plaintiff failed to show as to when did Bachni, who happened to be the first wife of Ajaib Ram, died. Likewise, nothing was brought on record to show that Ajaib Ram married Luxmi, and she was his second wife. No evidence was led to show the date when the plaintiff was born to Ajaib Ram and Luxmi. Nothing was stated, if Luxmi was a widow or an unmarried lady at the time of alleged marriage with Ajaib Ram. On the contrary, none other than the plaintiff himself conceded, in his cross-examination, that defendant happened to be the son of Ajaib Ram from Bachni. Rather, he conceded that his mother-Luxmi was actually married to one Basia. Nothing was brought on record to explain if Luxmi was already married, how could she perform marriage with Ajaib Ram. No evidence was led to show that Basia had died and it was after his death, Luxmi married Ajaib Ram. The mutation of inheritance of Ajaib Ram (Ex. D11) was sanctioned in favour of the defendant in the year 1996, but the plaintiff questioned this position only in the year 2011, i.e. after 15 years. In none of the records, plaintiff was reflected as son of Ajaib Ram. No independent witness was examined by the plaintiff either to prove his alleged relationship with Ajaib Ram. The only document that was brought on record in this regard was a certificate issued by the Education Department, Punjab, in the year 1996, wherein the plaintiff was recorded to be the son of Ajaib Ram. However, the original of this document was never produced. The record of the Education Department was not requisitioned either to prove this document. Therefore, it could not

RSA No. 6447 of 2016 (O&M)

be clarified, as to on what basis, the father's name of the plaintiff was shown as Ajaib Ram in the said certificate. Further, in the certificate (Ex.P4), name of the village of the plaintiff or his address was not mentioned. Therefore, that was hardly of any assistance to the plaintiff. On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if 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.

28.5.2018
AK Sharma

(ARUN PALLI)
JUDGE

Whether speaking / reasoned:
Whether Reportable:

YES