

RSA No. 6580 of 2016 (O&M)

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

**RSA No. 6580 of 2016 (O&M)
Date of decision: 11.5.2018**

Dharampal and another

... Appellants

Versus

Silak Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Sandeep Chahar, Advocate
for the appellants.

ARUN PALLI, J. (Oral)

The suit filed by the plaintiff was decreed by the trial court, vide judgment and decree dated 31.5.2012. As even the appeal preferred against the said decree failed, and was dismissed on 25.7.2016, the defendants are in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff sought a declaration that the impugned mutations and subsequent revenue record ignoring his claim/share in the suit land were

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illegal, null and void, as he happened to be the owner in possession of the suit property to the extent of 1/8th share, out of the share of his father plus 1/6th share, out of the share of his late sister.

On a consideration of the matter in issue and the evidence on record, both the courts concurrently concluded that on an analysis of mutation bearing No.3767 (Ex.P2), it was apparent that name of the plaintiff, Silak Ram, was mentioned in column No.9. And as he was one of the legal heirs of late Mehar Chand, the pedigree table drawn at the back of the mutation (Ex.P2) duly depicts his name. However, while sanctioning the said mutation on 16.10.1958, the revenue authorities, inadvertently, omitted the name of the plaintiff. Likewise, a perusal of the mutation of inheritance bearing No. 4568 (Ex.P3) of Dilbhari, who happened to be the sister of the plaintiff, shows that plaintiff's name was not incorporated in the said mutation either. But, Dilbag (DW1), conceded the relationship of plaintiff-Silak Ram with Mehar Chand as also with Dilbhari. Likewise, this fact was admitted by defendants No. 11 to 13 also. Not just that, in terms of Fard Badar (Ex.P44 and Ex.P45), the revenue authorities had sanctioned the correction in mutation No. 3767 (Ex.P2) in favour of the plaintiff, and he was shown to be the owner of 1/16th share in the suit property, i.e. 1/8th share out of the half share of deceased Mehar Chand. Likewise, the plaintiff was entitled to inherit the property of his sister-Dilbhari, for she was unmarried and died without leaving any class-I heir. As the plaintiff was claiming inheritance in the property of his late father and sister, on the basis of natural succession, it could not be said either that the suit filed by him was barred by time. On being pointedly asked, learned counsel for the appellant could not show as to how, the findings recorded by both the courts

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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.

11.5.2018
AK Sharma

(ARUN PALLI)
JUDGE

Whether speaking / reasoned:	YES
Whether Reportable:	NO