

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 6884 of 2016(O&M)

Date of Decision: 31.07.2018

Swaran Kaur

---Appellant

versus

Jagtar Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. L.M.Gulati, Advocate
for the appellant**

Rekha Mittal, J.

CM-17892-C-2016

Heard.

Allowed as prayed for.

Disposed of accordingly.

CM-17893-C-2016

Prayer in this application is for condoning delay of 34 days in
refiling the appeal.

Allowed as prayed for. Delay of 34 days in refiling the appeal
stands condoned.

Disposed of accordingly

CM-17894-C-2016

Prayer in this application is for condoning delay of 12 days in
filing the appeal.

Allowed as prayed for. Delay of 12 days in filing the appeal
stands condoned.

Disposed of accordingly

RSA No. 6884 of 2016

The present appeal directs challenge against concurrent
findings recorded by the courts whereby suit for declaration that the

appellant-plaintiff is owner to the extent of half share and is entitled to joint land measuring 10 bigha 7 biswas, situated in village Julkan, Tehsil and District Patiala and revenue entries in favour of Charanjit Singh defendant No. 5 recording him to be owner are wrong, illegal and liable to be corrected and mutation sanctioned in favour of Tarlok Singh after death of Partap Singh and sale made by Tarlok Singh in favour of defendant No. 5 is illegal, null and void and result of fraud with consequential relief of permanent injunction, was dismissed by the Civil Judge (Junior Division), Patiala (hereinafter to be referred to as “the trial court”) vide judgment and decree dated 15.7.2013 and the appeal preferred by the appellant/plaintiff did not find favour with the Additional District Judge, Patiala.

The appellant-plaintiff claimed half share in the suit land on the premise that she is daughter of Partap Singh, erstwhile owner of the suit land, therefore, she was entitled to half share in suit land on the basis of natural succession but mutation regarding inheritance of Partap Singh was wrongly sanctioned in favour of Tarlok Singh alone, thus, sale effected by Tarlok Singh in favour of Charanjit Singh is bad to the extent of half share owned by the appellant-plaintiff.

The plaintiff-appellant challenged the mutation sanctioned as back as in the year 1968 and sale deed dated 4.5.1976 executed by Tarlok Singh in favour of defendant No. 5 by filing the instant suit in September 2012. A serious issue was raised by the contesting defendant i.e. Charanjit Singh, vendee of suit land from Tarlok Singh with regard to appellant-plaintiff being daughter of late Partap Singh, thus, entitled to claim inheritance to estate of Partap Singh. Indisputably, defendant Nos. 1 to 4, successors-in-interest of Tarlok Singh admitted claim of the appellant-

plaintiff but the suit was seriously contested by Sh. Charanjit Singh. As defendant Nos. 1 to 4 were left with no right, title or interest in the suit property after its sale by Tarlok Singh, any admission by defendant Nos. 1 to 4 would not enure to benefit of the appellant-plaintiff particularly in the circumstances that the appellant failed to adduce satisfactory much less cogent evidence that she is daughter of late Partap Singh and sister of Tarlok Singh. The very fact that she did not claim inheritance to Sh. Partap Singh for a period of more than 40 years goes a long way to accept concurrent findings recorded by the courts that Swaran Kaur is not related to Partap Singh much less she being the daughter is entitled to inherit his estate.

Counsel for the appellant has failed to point out any materials on record worthy of consideration to substantiate plea of the appellant-plaintiff that she was born out of loins of Partap Singh and is the sister of Tarlok Singh (since deceased). In this view of the matter, no error much less perversity can be found in the judgments passed by the courts when otherwise the present appeal does not give rise to a question of law that needs determination in regular second appeal.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. The judgments and decrees passed by the courts are affirmed. No order as to costs.

(Rekha Mittal)
Judge

31.07.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No