

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

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**CM-18099-100-C-2016 in/and
RSA-6998-2016 (O&M)
Date of Decision : 26.09.2018**

Anil Kumar and others

..... Appellants

Versus

Kaptan Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Himanshu Sharma, Advocate
for Mr. Varun Gupta, Advocate
for the applicants-appellants.

AJAY TEWARI, J. (ORAL)

CM-18099-100-C-2016

For the reasons recorded, the applications are allowed. Delay of 49 days in re-filing and 79 days in filing the appeal is condoned.

RSA-6998-2016 (O&M)

This appeal has been filed against the concurrent judgments of the courts below dismissing a suit filed by the appellants.

The appellants have challenged a sale deed made by respondent No.3-their father- in favour of respondent Nos.1 and 2 on the ground that the property he had sold was ancestral and coparcenary property and he had executed the sale deed without legal necessity. They produced a lot of revenue record and the mutation of inheritance of their forefathers yet a mutation of inheritance from their grand-father to their father – respondent No.3 was not placed on record. In the absence thereof, both the courts below held that the property was not ancestral

coparcenary property and dismissed the suit. Hence, the present appeal.

Before me counsel for the appellants has fairly accepted that the mutation of inheritance from Kurda in favour of Ram Swaroop – respondent No.3 i.e. from grand-father to the father of the appellants was not produced on record. He has however argued that other documents shows that the property come in the line of succession to the great-grandfather to the father and so on.

In my opinion, this argument by the counsel for the appellants cannot prevail without the mutation of their grand-father in favour of their father – respondent No.3.

Appeal is dismissed. No costs.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

September 26, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No