

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

**Regular Second Appeal No.5969 of 2015 (O&M)
Date of Decision: January 19, 2018.**

Gulzar Singh and others

.....APPELLANT(s).

VERSUS

Ajaib Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Verma, Advocate
for the appellant (s).

SURINDER GUPTA, J.

The appellants-plaintiffs have sought declaration that the suit property in the hands of Kapoor Singh, brother of grand father of appellants-plaintiffs was joint Hindu family coparcenary property, as such, the decree dated 01.04.1995 suffered by him in favour of defendants No.1 to 5 is illegal, null and void.

Learned counsel for the appellants-plaintiffs submits that Gurdit Singh was common ancestor of the parties. He was having three sons namely, Kapoor Singh, Sapoor Singh and Kirpal Singh. The suit property was inherited by Kapoor Singh from his ancestors. He was unmarried and issueless. He suffered a decree dated 01.04.1995 in favour of respondents-defendants No.1 to 5. As the suit property was joint Hindu family coparcenary property in the hands of Kapoor Singh, he was not competent to suffer a decree in favour of defendants No.1 to 5, who are

sister's sons of Kapoor Singh.

The plea taken by appellants-plaintiffs was not accepted by the Courts below on two grounds, firstly that it was not proved that the suit property was joint Hindu family coparcenary property in the hands of Kapoor Singh and secondly, the decree dated 01.04.1995 suffered by Kapoor Singh is duly proved.

Even if contention of plaintiffs be believed that the suit land was joint Hindu family coparcenary property in the hands of Kapoor Singh, the plaintiffs have no right to claim suit property as joint Hindu family coparcenary property as Kapoor Singh being last coparcener, owned the property as self-acquired property and was competent to transfer the same as per his will. The plaintiffs who are the grand sons of Kirpal Singh, brother of Kapoor Singh, cannot claim that they have any interest in the property of Kapoor Singh.

Learned counsel for the appellants further submits that there are certain strange facts about the alienation of suit property by Kapoor Singh, who initially executed a Will in favour of plaintiffs, which was later on cancelled and another Will was executed by him in favour of respondents-defendants No.1 to 5 and then he suffered a decree and thereafter he executed sale deed of the suit property in their favour, which shows that he was under some pressure to transfer his property in favour of defendants No.1 to 5, otherwise, there was no reason for him to execute Will, suffer decree and then execute sale deed in their favour.

The above contention of learned counsel for the appellants has no merits, rather depicts that Kapoor Singh was very cautious about the

inheritance of his property. He initially chose plaintiffs to inherit his property but later on changed his mind and executed the Will in favour of defendants No.1 to 5. To be sure about devolvement of his land in favour of defendants No.1 to 5 he suffered a decree in their favour and then to be further sure, he executed a sale deed of the suit property in their favour. Appellants-plaintiffs have got no locus standi to challenge the mode of inheritance of his property chosen by Kapoor Singh.

On perusal of the paper book and judgments of the Courts below, I find no legal or factual infirmity therein, calling for any interference.

No substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

January 19, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***

**103 CM-14886-C-2015 in
RSA-5969-2015.**

GULZAR SINGH & ORS VS AJAIB SINGH & ORS

Present: Mr. Ashish Verma, Advocate
for the appellant (s).

Heard. There is delay of 56 days in re-filing the appeal.

In view of the facts mentioned in the application, the same is
allowed and delay of 56 days in re-filing the appeal is, hereby, condoned.

January 19, 2018.
Sachin M.

**(SURINDER GUPTA)
JUDGE**