

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.168 of 2017 (O&M)

Date of Decision: December 11, 2018

Pargat Singh

...Appellant

Versus

Bhajan Singh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Manish Kumar Singla, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

Appellant-defendant No.2 has not been successful in defending the suit for redemption at the instance of the respondent-plaintiff in view of the registered mortgage deed dated 12.01.1982 executed by Mohinder Singh in favour of defendant Nos.1 and 2.

Plaintiff claimed himself to be son of mortgagor, namely, Mohinder Singh, who executed the aforementioned registered mortgage deed in favour of defendant Nos.1 and 2. Plaintiff instituted the suit for redemption in the Court of Assistant Collector Ist Grade, Dhuri and vide order dated 12.10.2012, the matter was adjourned sine-die. It was alleged that vide judgment and decree dated 04.10.2011, plaintiff was declared to be the only legal heir of Fateh Singh son of Mohinder Singh.

Defendant Nos.1 and 3 admitted the claim of the plaintiff, whereas defendant No.2 opposed the suit being barred by law of limitation and denied Bhajan Singh to be son of Mohinder Singh. The suit, vide

judgment and decree dated 04.10.2011, was dismissed against defendant Nos.3 to 17, in which the present defendants were defendant Nos.3 and 5.

Plaintiff in support of the evidence examined three witnesses and brought on record mortgage deed, jamabandi, decree and statement of Baldev Singh, whereas the defendants brought on record Ex.D1 to Ex.D5.

Mr. Manish Kumar Singla, learned counsel appearing on behalf of the appellant-defendant submitted that the judgment and decree dated 04.10.2011 does not confer status of Bhajan Singh to be son of Mohinder Singh and, therefore, the order dated 12.10.2012 of the Assistant Collector leaving the parties to establish the succession of Mohinder Singh in the absence of any decision, has gone unnoticed and, therefore, there is illegality and perversity.

I am afraid that the aforementioned argument is not sustainable, for, in the judgment and decree dated 04.10.2011, Bhajan Singh respondent-plaintiff was declared to be the legal heir of Fateh Singh, who was none else but son of Mohinder Singh. It was also held that Mohinder Singh has two sons, namely, Bhajan Singh and Fateh Singh. It was incumbent upon the defendants to belie the status of Bhajan Singh being son of Mohinder Singh. In the absence of other legal heirs, one legal heir can espouse the grievance or represent the estate of the deceased. Mortgage deed was having no time line but was a registered document. Even the objection of limitation in view of the law laid down by Hon'ble the Supreme Court in **Singh Ram (D) through L.Rs Versus Sheo Ram & others, 2014 (4) RCR (Civil) 179** would not be attracted.

For the reasons mentioned above, the concurrent findings of fact and law, thus, cannot be faulted with or suffering from any illegality

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and perversity. No ground for interference is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

December 11, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No