

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

**RSA No.4539 of 2014 (O&M)
Date of Order:09.02.2018**

Vijay Singh and others

..Appellants

Versus

Rohtash and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harish Goyal, Advocate,
for the appellants.

Mr. Ankit Gautam, Advocate,
for the respondents.

ANIL KSHETARPAL, J.

Defendants-appellants are in regular second appeal against the judgment passed by the learned District Judge, Mewat, decreeing the suit filed by the plaintiffs and reversing the judgment passed by the learned trial Court.

Plaintiffs had filed a suit claiming that they are co-owners and the defendants who are not legal heirs of Chandra Bai wife of Ganga Singh @ Ganga Sahi has sold more than her share in the property. It was further pleaded that legal heirs of Chandra Bai are taking undue benefit of the wrong entries in the revenue record. Plaintiffs further disclosed that in the previous litigation between the parties decided on 02.12.2009, plaintiffs were declared co-owners of the property.

Learned first appellate court after re-appreciating the evidence available on the file came to a finding that predecessor-in-interest of the defendants had sold more than their share in the joint land. The court, thus,

held that the plaintiffs are entitled to declaration as prayed for and restrained the defendants from alienating any further land. The court further held that the entries in the revenue record are incorrect.

Learned counsel for the appellants has submitted that earlier the judgment between the parties dated 02.12.2009 operates as resjudicata and therefore, no further suit was maintainable.

In the considered opinion of this Court, argument does not have any substance.

Subsequent suit filed by the plaintiffs was entirely on a different cause of action. In the previous litigation, plaintiffs were declared to be co-owners with the defendants. In the subsequent suit, plaintiffs filed a suit claiming that the defendants have sold more than their share and they are taking benefit of the wrong entries in the revenue record and selling further land to which they are not entitled to. Such being the position, the first appellate court has correctly held that the subsequent suit is not barred by resjudicata.

No other point was pressed.

In view thereof, there is scope for interference in the findings of fact arrived at by the learned first appellate court.

The regular second appeal is dismissed.

February 09, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No