

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 1364 of 2018(O&M)

Date of Decision: 16.8.2018

Dalbir

---Appellant

versus

Amarjeet and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Surinder Gaur, Advocate
for the appellant**

Rekha Mittal, J.

CM No. 3402-C of 2018

Prayer in this application is for impleading legal representative(s) (in short "LRs") of Chandan Singh-respondent No. 2 (since deceased).

In view of averments made in the application supported by an affidavit of Dalbir Singh and arguments advanced, application is allowed and persons mentioned in para 2 of the application are brought on record as LR's of Chandan Singh-respondent No. 2 (since deceased), subject to just exceptions, for the purpose of present lis only.

Disposed of accordingly.

RSA No. 1364 of 2018

The present appeal directs challenge against the judgment and decree dated 22.12.2017 passed by the Additional District Judge, Rohtak

whereby appeal preferred by Amarjeet-respondent No. 1 (defendant No. 3 before the trial court) was allowed, judgment and decree dated 12.8.2016 passed by the trial court allowing suit of the plaintiff-appellant were set aside and suit for declaration filed by the appellant-plaintiff to challenge release deed No. 4600 dated 31.7.2013 and mutation No. 6064 dated 31.8.2013 sanctioned on its basis, was dismissed.

The plaintiff-appellant challenged the release deed executed by Chandan Singh, his father in favour of Amarjeet son of Balwan Singh, grand son of Chandan Singh primarily on the ground that suit land is joint Hindu family coparcenary property and the appellant-plaintiff being one of the coparceners got right and interest in the suit land by way of birth. The suit land is comprised of khasra No. 244//41 (4-15) to the extent of 1/10th share i.e. 9 marla 5 sarsahi and killa No. 245//2/22(1-18) to the extent of 47/294 share i.e. 6 marla total measuring 15 marla 5 sarsahi, situated at village Bhallout, Tehsil and District Rohtak.

Counsel for the appellant would urge that the appellant has filed an application under Section 41 Rule 27 of the Code of Civil Procedure (in short “the Code”) for adducing additional evidence to produce on record copies of documents Annexures A-1 and A-2 i.e. jamabandi for the year 2012-13 and copies of mutation in respect of land owned by Sheokaran son of Jodha Jat in favour of Mange Ram son of Sheokaran and mutation qua ownership of Mange Ram in favour of Dharam Singh and others including Chandan Singh to the extent of 1/6th share each. It is argued that in the release deed impugned, there is reference to mutation No. 1894 qua land owned by Mange Ram in favour of Chandan Singh etc. therefore, documents A-2 (Colly) are sufficient to

substantiate plea of the appellant that land in question was joint Hindu family coparcenary property in the hands of Chandan Singh.

I have heard counsel for the appellant, perused the judgment passed by the Court in Appeal and documents sought to be produced by way of additional evidence.

As per the settled position in law, an admission by a party either on the basis of pleadings or by way of a statement or document that a particular piece of land is the joint Hindu family coparcenary property is not sufficient to prove nature and status of the property as such. No doubt, in the release deed executed by Chandan Singh, he has stated that the land, subject matter of the release deed, is ancestral property by making reference to mutation No. 1894 dated 22.4.1951 with regard to inheritance to his father Sh. Mange Ram and the land being inherited from forefathers but the same is not sufficient to prove that the suit land is joint Hindu family coparcenary property in the hands of Sh. Chandan Singh. Indisputably, the appellant has failed to produce any evidence before the Courts below or by way of application for additional evidence to connect the khasra numbers in question with the land which at one point of time was owned by Sheokaran, grand father of Chandan Singh. The appellant has not produced documents of consolidation in order to prove that disputed khasra numbers were allotted in lieu of land owned by Sh. Sheokaran. Had it been true that disputed khasra numbers were allotted in consolidation, there was no reason for the appellant not to produce documents of consolidation by way of additional evidence. In this view of the matter, I find myself unable to accept contention of the appellant that the documents sought to be produced by way of additional evidence would clinch the matter in controversy to

substantiate plea of the appellant that suit land is joint Hindu family coparcenary property in the hands of Chandan Singh and the appellant is entitled to a share therein by way of birth.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

16.8.2018

PARAMJIT	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No