

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

RSA-2570-2017

Date of decision: August 09, 2018

Jeet Singh

...Appellant

Versus

Balwant Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Peeush Gagneja, Advocate for the appellant.

Rajan Gupta, J.

Present appeal has been preferred to impugn findings of two courts below on the ground that same are perverse and based on misappreciation of evidence.

Plaintiff/appellant filed a suit for declaration with consequential relief of permanent injunction against the defendant/respondents to the effect that he is owner in possession of 1/5th share of land measuring 41 Kanals 16 Marlas, situated in the revenue estate of village Gidderanwali, Tehsil Abohar, District Fazilka as also other property left by deceased Hukam Singh, being his legal heir and further declaring mutation Nos.2444 and 24.12.2005 as well as mutation Nos.2455 and 2456 dated 27.02.2006 on the basis of alleged sale deeds dated 23.01.2006, as illegal, null and void and not binding upon the rights of the plaintiff, and restraining defendants No.1 & 2 from alienating, mortgaging, gifting or transferring any part of the suit land and raising

any construction over the same. It is averred that Hukam Singh son of Ganda Singh was owner in possession of land measuring 41 Kanals 16 Marlas, who had died in the year 1971. After his death, Balwant Singh defendant No.1, Jamna Bai (now deceased) and Smt. Ganga Bai, son and daughters of deceased Hukam Singh, became owner in joint possession of the suit land being Class-I heir of the deceased. However, mutation could not be entered in the names of all the legal heirs. Jamna Bai also died leaving behind plaintiff and defendants No.4 to 7 and another daughter Smt. Chhindo Bai (now deceased). Defendant No.1 got mutation Nos.2444 dated 24.12.2005 sanctioned in his favour at the back of plaintiff showing wrong date of death of Hukam Singh as 1965. Plaintiff pleaded that he being Class-I legal heir of deceased Hukam Singh, is entitled to inherit 1/18th share in the suit land including other property of the deceased. Suit was resisted by defendants No.1 & 2, taking certain preliminary objections that plaintiff had no cause of action or locus standi to file the suit and the suit was not maintainable. He has concealed the true facts. It is further denied that Jamna Bai and Ganga Bai are daughters of deceased Hukam Singh or that plaintiff and defendants No.4 to 7 are sons and daughters of Jamna Bai, rather they had no relationship with deceased Hukam Singh. Defendant No.1 being absolute owner in possession of the property in question, has sold the same in favour of defendant No.2. After hearing both the parties and perusing oral as well as documentary evidence, the trial court dismissed the suit. It observed that plaintiff had failed to establish that deceased Hukam Singh was having any other legal heir except defendant No.1 Balwant Singh. It

further observed that from Jamabandi for the year 2003-04 and mutation No.2444, it is fully proved that after death of deceased Hukam Singh, the property in question was inherited by defendant No.1. Further plaintiff had failed to prove date of death of deceased Hukam Singh. Findings were affirmed by the lower appellate court.

I find no infirmity with the findings arrived at by both the courts below. Plaintiff/appellant was duty bound to prove that deceased Hukam Singh had left three legal heirs namely, Balwant Singh, Jamna Bai and Ganga Bai, but he could not lead any evidence in this regard and his bald statement is not sufficient to prove this fact. Only plea raised before this court is that judgments of two courts below are based on misappreciation of evidence as well as law. I find no substance in this plea. A perusal of concurrent findings of two courts below shows that same suffer from no infirmity. No other substantial question of law has been urged.

Dismissed.

(RAJAN GUPTA)
JUDGE

August 09, 2018
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No