

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM No.5890-C-2018 in/and
RSA No.2160 of 2018 (O&M)
Date of Decision : 23.04.2018

Anil S.Rao

..... Appellant

Versus

Sh.Ram Chander and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. P.R.Yadav, Advocate
for the applicant-appellant.

AJAY TEWARI, J. (Oral)
CM No.5890-C-2018

For the reasons recorded, the application is allowed. Delay of
57 days in re-filing the appeal is condoned.

RSA No.2160 of 2018

This appeal has been filed against the judgment of the Courts
below dismissing the suit filed by the appellant.

At the very outset learned counsel states that though this suit
was filed for two properties yet in respect of one property the suit was
dismissed as withdrawn and with respect to that property the appellant has
filed a separate suit. As regards the present suit the dispute which remains
is with regard to certain land which was purchased by the brothers of the
appellant, which as per the appellant was purchased through joint family
funds and consequently, as per the appellant he had a share in the same.

two brothers who had obtained a loan from the Gurgaon Primary Co-op. Land Mortgage Bank Ltd. and both of the Courts noticed that the assertion of the appellant that the loan amount was repaid from the shagun which was given at his engagement was not proved.

Counsel for the appellant has argued that one cousin of the appellant had appeared and had testified that the oral family settlement had taken place. In my considered opinion an oral family settlement which is not incorporated in the revenue record can not be even otherwise acted upon. Further counsel has also not been able to satisfy this Court that the loan amount was repaid by the money which he had received at his engagement.

Learned counsel has argued that once the appellant had proved that his father had inherited certain property the presumption was that the land was purchased from that nucleus. That may have been so if the land was purchased by the father of the appellant. Once the two brothers of the appellant had purchased the land in their own individual name after taking loan no such presumption would arrive.

In the circumstances, no fault can be found with the judgment.

Appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

23.04.2018

Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No