

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

**RSA No.5528 of 2014 (O&M)
Date of Order:14.11.2018**

Shania Kaur and others

..Appellants

Versus

Ajit Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Bansal, Advocate,
for the appellants.

Mr. P.K.Ganga, Advocate,
for respondents no.1 to 3.

ANIL KSHETARPAL, J(Oral)

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below while dismissing their suit for declaration to the effect that they are co-owners and therefore, entitled to shares in various parcels of land mentioned in the plaint. Plaintiffs also prayed for decree for recovery of Rs.50 tolas of gold ornaments apart from praying for injunction, restraining the defendants from alienating the suit property.

The suit was instituted on 06.03.2002. Plaintiffs are minor children and widow of late Sh. Navdeep Singh, (died in the year 2000).

Defendants contested the suit and pleaded that the compromise has been arrived at on 26.06.2002, whereby properties of the family have been divided and share of the plaintiffs has been identified and separate.

In the replication, plaintiff no.3, pleaded that there is no compromise and defendants might have obtained her signatures and mis-utilised the same.

Both the courts after examining the evidence have concurrently recorded a finding that the compromise Ex.DW5/B has been proved on file and plaintiff no.3 while appearing in evidence has admitted her signatures on the aforesaid document. It may be significant to note that father of plaintiff no.3 has also signed the aforesaid compromise. The aforesaid compromise deed has been proved by examining Jagdev Singh, marginal witness who has appeared in evidence as DW5. Plaintiffs claim the property to be Joint Hindu Family Ancestral property. Both the courts have recorded a finding that plaintiffs have failed to prove that the property is ancestral in nature.

In the considered view of this court, once there is a settlement between the parties in writing, ancestral or Joint Hindu Family, if any, if any, ceased to exist from the date family settlement was arrived at between the parties and shares of each member of the family has been identified. Plaintiff no.3 once admit her signatures, it was for her to prove that her signatures were obtained on blank papers. Ex.DW5/B is executed on a non-judicial stamp paper bearing signatures of all the family members including father of the plaintiff no.3.

No doubt, plaintiff has examined an expert who has opined that there is overlapping of the signature on the typed material. However, a Handwriting and Finger Print Expert has also examined by the defendants who has given opinion against the opinion given by the expert examined by the plaintiffs. Both the courts have discarded the opinion of the experts and

relied upon direct evidence i.e. statement of Jagdev Singh who has appeared as DW5. Plaintiff no.3 has not even examined in evidence her father to prove her case as pleaded.

Although, in this court an application for additional evidence has been filed so as to produce on record jamabandies for the years 1925-1926 and 1970-1971, however revenue record sought to be would not advance the case of the plaintiffs. Still further revenue record was in the knowledge of the plaintiffs. It was their pleaded case that the property is ancestral Joint Hindu Family property. Once plaintiffs have failed to produce sufficient evidence before the trial court as well as before the first appellate court, this court does not find any reason to permit the plaintiffs to lead additional evidence which otherwise also even if permitted would not advance their case.

Still further, it has come on record that plaintiff no.3 has earlier also filed two suits, Parminder Kaur vs. Gurdial Kaur and Parminder kaur vs. Gurjit Singh and both have been decided against plaintiff no.3. Further, on reading of the compromise deed, Ex.DW5/B dated 24.06.2002, it is apparent that substantial property has been given to the plaintiffs.

In view thereof, this court does not find any good ground to interfere with the concurrent findings of fact arrived at by both the courts below.

The regular second appeal is dismissed.

Other miscellaneous applications shall stand disposed of in view of the judgment passed above.

C.M.No.13129-C-2014

Prayer in this application is for condonation of delay of 95 days

in re-filing the appeal.

For reasons mentioned in the application, which is supported by an affidavit, the delay of 95 days in re-filing the appeal is condoned.

Application is allowed.

November 14, 2018
nt

(ANIL KSHETARPAL)
JUDGE

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