

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3221 of 2017 (O&M)

Date of decision: 25.07.2018

Visakha Ram (deceased) through his LRs

..... Appellants

Versus

Nand Ram and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. A.K. Khunger, Advocate
for the appellants.

ANIL KSHETARPAL, J. (ORAL)

Plaintiff through his legal heirs has filed this appeal against the concurrent finding of fact arrived at by the Courts below.

Plaintiff filed a suit for declaration claiming that he is owner in possession of land measuring 24 kanals 5 marlas by virtue of family settlement dated 28.03.2007 and also challenged the sale deeds executed by defendants No.1 to 6 on various occasions. Defendant No.1-Nand Ram had five sons out of whom Pannu Ram had died (Represented by Hazara and Sardara sons of Pannu Ram). The suit against defendants No.5 and 6 was dismissed under Order 9 Rule 2, CPC. The defendants disputed the family settlement and contested the suit. Learned trial Court found that the alleged family settlement which is sought to be used as an instrument of partition of the immovable property, is written in presentie, hence, required to be registered, before it could be admitted in evidence and enforced. The appeal filed by the legal heirs of the plaintiff was also dismissed after recording a finding that the plaintiff has not brought on record any evidence

to prove that the property was joint Hindu family property in the hands of defendant No.1. The plaintiff had produced only one Jamabandi Ex.P-1 which recorded that defendant No.1 is owner of land to the extent of 127 kanals and 11 marlas. The Court also noticed that the plaintiff failed to bring on record khatoni istemal, khatoni paimaish, naksha hakdarwar, missal hakiat & shajra nasab apart from other revenue record. Further, the Court held that the alleged family settlement dated 28.03.2007 is in presentie and therefore, required to be registered.

Learned counsel for the appellant although tried to persuade this Court to take a different view, however, keeping in view the findings of the Courts below which are neither shown to be perverse nor result of misreading or non-reading of the substantive evidence, this Court does not find any ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal is dismissed.

CM-7931-C-2017

Prayer in the application is for impleading Smt. Gurmeet Kaur, widow of Sham Lal as legal heir of Sham Lal deceased. It is pleaded in the application that before the learned First Appellate Court, although Sham Lal had died, his legal heirs were not impleaded.

Keeping in view the prayer made, the application is allowed. Smt. Gurmeet Kaur is brought on record as legal heir of Sham Lal.

25.07.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No