

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

**Regular Second Appeal No.3738 of 2017 (O&M)
Date of Decision: January 24, 2018.**

Satpal @ Satta and another

.....APPELLANT(s).

VERSUS

Pirithi and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.K. Prajapati, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Appellant-plaintiff Satpal Singh @ Satta along with Ram Pyari widow and Jasmeer Kaur daughter of Bant Ram filed suit for declaration that the suit land measuring 84 bigha 3 biswa in the hands of defendant No.1-Pirithi (grand father of plaintiffs Satpal and Jasmeer Kaur) is joint Hindu family ancestral coparcenary property and the sale deed executed by defendant No.1 in favour of his son Karnail Ram on 01.12.2008 is illegal, null and void. They also sought relief of permanent injunction to restrain the defendants from selling, alienating or transferring the suit land in any manner.

The suit was dismissed by the Civil Judge, Rajpura with the observation that the plaintiffs have failed to produce any document on record to show that defendant No.1 has inherited the property from his ancestors and to prove by which mode the suit property has devolved on

defendant No.1. First appellate Court while declining the appeal filed by the plaintiff against the judgment of the lower court, also made similar observations.

Feeling aggrieved, plaintiffs Satpal @ Satta and Jasmeer Kaur filed the regular second appeal.

I have heard learned counsel for the appellants-plaintiffs and perused the paper book with his assistance.

Learned counsel for the appellants has argued that though the appellants have not produced the revenue record to prove the mode of devolution of the suit property on defendant No.1 from his ancestors and that this property was inherited by ancestors of defendant No.1 by way of survivorship but this fact was admitted by defendant that it is ancestral property in the hands of defendant No.1 and this proves that the suit property is joint Hindu family ancestral coparcenary property in the hands of defendant No.1 and both the Courts below have committed error while declining the plea of plaintiffs to this effect.

First Appellate Court while concluding that plaintiff has filed to prove that the suit property was joint Hindu family coparcenary property, has observed in para 11 of the judgment as follows:-

“11. However, plaintiffs have miserably failed to establish that aspect and the revenue record so proved is in favour of defendant no.1 was shown to be owner in possession over the suit land qua his share. No revenue record has been proved to establish that defendant No.1 inherited such property from his forefathers. In the absence of that record, it is very hard to conclude that such property was ancestral,

coparcenary property in the hands of defendant No.1, despite the fact that there was admission on the part of defendants in their written statement as law on the picture (sic point) is well settled that mere admission to that effect is not enough and party concerned is duty bound to establish by leading cogent evidence that property is ancestral coparcenary property.”

The onus was heavily upon the appellants-plaintiffs to prove that the suit property was joint Hindu family coparcenary property but they have utterly failed to discharge this onus.

On perusal of the judgments of the Courts below, I find no legal or factual infirmity therein, calling for any interference.

No question of law what to talk of substantial question of law requiring determination arises in this appeal, which has no merits.

Dismissed.

January 24, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***