

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

RSA No. 387 of 2017 (O&M)

Date of Decision:- 31.10.2018

Hanif Mohammad (Deceased) now through LRs and others

.....Appellants

V/S

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gulzar Mohammad, Advocate
for the appellant.

AMIT RAWAL, J. (Oral)

C.M. No. 840-C of 2017

There is an application under Order 22 Rule 3 C.P.C. For impleading the appellants No.1a to 1e/plaintiff No.1 as legal heirs of deceased plaintiff No.1/appellant No.1 in the present appeal.

It has been averred in the application that during the pendency of the appeal before the Ld. Additional Sessions Judge, Jalandhar, Hanif Mohammad had expired, leaving behind his legal representatives as mentioned in para No.2 of the application.

After hearing learned counsel for the applicants and perusing the contents of the application, which is supported by an affidavit, the same is allowed. The applicants, as mentioned in para No.2 of the application be impleaded as legal representatives of deceased Hanif Mohammad, subject to all just exceptions and for the limited purpose of this litigation.

Civil Miscellaneous Application is allowed.

Main Case

Plaintiff has not been successful in seeking claim with regard to

declaration being joint owner and in joint possession of a property measuring 10 marla consisting of 3 shops in a vacant plot, further, the correction of the entry in the revenue record from Maqbuja Custodian & Central Government as owner on the premise that their father after partition of the country had remained in India. He died on 16.03.1990 leaving behind his three sons. He was the owner of the residential house in village Sangal Sohal, Tehsil and District Jalandhar and also owned agricultural land. In the Jamabandi for the year 1952-53 the share of Sandhi was shown as 439 share. After that there was a dispute regarding the possession amongst the legal heirs. Persistent request to the department for correction of the entry was made which did not yield any result, gave cause of action to file the suit.

After appearance defendants were proceeded ex-parte. In ex-parte evidence plaintiff brought on record Ex.P-1 to P-50 documents.

Trial court on the basis of the evidence dismissed the suit on the premise that the plaintiff had not been able to prove the ownership and possession, so did the lower appellate court.

Mr. Gulzar Mohammad, learned counsel appearing on behalf of the appellant submitted that the, documentary evidence, aforesaid brought on record had gone unrebutted, thus it carried a presumption of truth and in such circumstances declaration was inevitable. Previous entry reflected the possession of their father, but no explanation has come forward about the change in the entry in the name of the Government, without any compensation.

I have heard the learned counsel for the appellant and of the view that there is no force and merit in the submission. The entry in the

Jamabandi would not confer title. Furnishing of an affidavit by the witness would not help. In the Jamabandi for the year 2004-05, the names of the plaintiffs were not reflected. After the death of Sandhi, entry continued in the name of Central Government, but the suit was filed only in the year 2013. No explanation has come forward, how the cause of action was recurring. Mere exhibition of the document did not dispense with its proof. The plaintiff did not discharge the onus as per Section 101 of the Indian Evidence Act. No ground for interference in concurrent finding is made out.

RSA stand dismissed.

31 October, 2018

Rajeev/Himanshu

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No