

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

RSA No.4641 of 2017

Date of decision:- 11.01.2018

Jaswant Singh

...Appellant

Versus

Smt. Indro Bai Widow of Ranjit Singh and anr

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Sharmila Sharma, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

Appellant has come up in appeal against the judgment dated 14.09.2017 passed by the Additional District Judge, Fatehabad and judgment dated 01.11.2014 passed by the trial Court, whereby the suit of the plaintiff has been dismissed by both the courts.

Consequently, appellant filed the present appeal.

Brief facts of the case are that the plaintiff is son of defendant No.1-Smt. Indro Bai and her deceased husband Ranjit Singh. In the ration card no. 2211305 issued by the Food and supply department at serial no. 3 name of the plaintiff is entered and Ranjit Singh is mentioned as his father. In the same manner, in the voter list name of his father is mentioned as Ranjit Singh. The father and mother of the plaintiff had adopted defendant No. 2- Dona Singh @ Sonan Singh. Ranjit Singh expired on 13.10.2001. After his death, the plaintiff and defendants are the only legal heirs of Ranjit Singh. Ranjit Singh was owner in possession of total land measuring 38

Kanals 18 marlas comprised of defferent khewats situated in village Bhirdana, Tehsil and District fatehabad as per the jamabandi for the year 1999-2000 (hereinafter to be called as suit land). As per Hindu Succession Act, after death of Ranjit Singh, the mutation of property owned by Ranjit Singh was to be sanctioned in favour of the plaintiff and defendant equally. However, the defendants in collusion with each other got entered and sanctioned mutation no. 1287 dated 04.10.2013 in their favour alone. While getting the said mutation entered and sanctioned, it was not revealed by the defendants that the plaintiff is also son of deceased Ranjit Singh. Before sanctioning of said mutation, no notice was given to the plaintiff. The suit land is in joint possession of plaintiff and the defendants. The plaintiff is cultivating the land of his share. In the year 2012, the defendants did not allow him to harvest the crop by saying that only they are owner in possession of the suit land. On this, the plaintiff inquired and came to know that the mutation no. 1287 has been sanctioned in favour of defendants. Thereafter, he requested the defendants many times to get the mutation no.1287 cancelled and get his name incorporated in the revenue record as owner in possession to the extent 1/3rd share of property left by deceased Ranjit Singh. But the defendants refused to accede to his request. Under these circumstances, he has filed the present suit seeking therein decree for declaration to the effect that plaintiff being son of Ranjit Singh is entitled to inherit the 1/3rd share of the suit land and the mutation no. 1287 dated 12.10.2003 sanctioned in favour of defendant is wrong, against law and facts and is liable to be set-aside. He has also pleaded that he is entitled to get his name incorporated in revenue record as owner in possession to extent of 1/3rd share of suit land. He has also sought the relief of permanent

injunction to the effect that defendants be restrained from alienating or creating encumbrance over the suit land on the basis of wrong entries in revenue record in their favour.

Upon notice, respondents-defendants have appeared and have filed their written statements, separately. The defendant no. 1 has taken various preliminary objections regarding maintainability, not coming to the court with clean hands, locus-standi, lack of cause of action etc. On merits, defendant no. 1 has stated that out of her wedlock with Ranjit Singh, she has no child. Her husband used to remain ill. Gurdeep Singh, the father of the plaintiff had got registered a adoption deed dated 28.02.1995 from her husband Ranjit Singh by way of fraud. After death of her husband, mutation has been entered in favour of the defendants. She has further pleaded that the father of plaintiff got entered the name of Jaswant Singh as son of RanjitSingh in the ration card and voter identity card by deceit. When defendant no. 1 was not allowed to harvest the crop of last rabi season, a civil suit no. 214-C of 2012 was filed by her against Gurdeep Singh. The plaintiff in collusion with his father wants to grab the land of defendants. The plaintiff by impersonating defendant no. 2 obtained loan from UCO bank. When defendant no. 1 came to know this fact, she filed a criminal complaint under Section 420, 467,468,471,120-B,506 of IPC against the plaintiff and his father. The rest of the averments of the plaint have been denied specifically and a prayer for dismissal of the suit has been made.

Defendant no. 2 has submitted that the plaintiff is real son of defendant No. 1 and her deceased husband Ranjit Singh whereas he is

adopted son of defendant no. 1 and Ranjit Singh. He also stated that he has no objection if the suit of the plaintiff is decreed.

From the pleading of the parties, following issues were framed by the trial court:

1. whether the plaintiff is entitled to decree of declaration as prayed for?OPP.
2. Whether the plaintiff is entitled for permanent injunction as prayed for?OPP
3. whether the suit of the plaintiff is not maintainable in the present form?OPD.
4. Whether the plaintiff has no cause of action or locus standi to file the present suit?OPD.
5. Whether the plaintiff has concealed the true and material facts from the court?OPD.
6. Whether the plaintiff is estopped from filing the present suit by his own act and conduct?OPD.
7. Relief.

Trial Court, after going through the evidence led by the parties, dismissed the suit. Appeal against the said judgment also met the same fate.

Heard.

Plaintiff appeared as PW 1 and tendered affidavit Ex. PW1/A in which he reiterated the averments made in the plaint on oath. Plaintiff further examined Balbir Singh, Inspector Food and Supply Department,

Fatehabad as PW2 who has stated that he has brought the record regarding ration card which was entered at serial no.2680 in which Jaswant Singh is mentioned at no. 1, Kulwant Singh at No.2 and Indro Bai at No. 3. He further deposed that photo copy of application for issuing of ration card is Ex. PW2/A which was filed in the year 2005. He further deposed that before the year 2005 record is not available. He further examined Krishan Kumar Clerk, Election Office, Fatehabad as PW 3 who has brought the record regarding voter list of plaintiff, photo copy of which is Ex. PW3/A. A perusal of all the said documents shows that the date of all the documents is after the date of death of the deceased Ranjit Singh. Plaintiff has also placed on file certificate mark B allegedly issued by Headmaster Maharishi Dayanand School, Bhirrana, Fatehabad wherein name of the father of plaintiff is mentioned as Ranjeet Singh and his mother's name as Smt. Indro Bai. However, said certificate has not been duly proved on the file. Even all the documents on file are not duly proved and prepared after the death of Ranjeet Singh.

However, appellant-plaintiff himself stated that vide adoption deed dated 28.02.1995 Ranjeet Singh and Indro bai defendant No. 1 had adopted Dona Singh defendant no. 2 who is son of Gurdeep Singh, Brother-in-law of defendant no. 1. Copy of said adoption deed has been placed on file as Ex. DW2/A. In the said adoption deed it is specifically stated by Ranjeet Singh that he is not having any child this statement is duly proved by defendant no. 1 Indro Bai vide Ex. DW1/A. Said deed was executed on 28.02.1995 that is after birth of Jaswant Singh-appellant. Moreover, plaintiff has failed to cite any reason as to why Indro Bai defendant no. 1 refused to

accept him as her son and nothing came on the file which could create any doubt regarding truthfulness of the deposition of Indro bai defendant no. 1.

On appeal, Lower Appellate Court has affirmed the finding given by the trial court and held that Indro Bai defendant no. 1 had filed a criminal complaint under Sections 420, 467, 468, 471, 120B, 506 of IPC against plaintiff and his father Gurdeep Singh on the allegations that plaintiff by impersonating defendant no. 2 obtain loan from UCO Bank. In the criminal complaint police conducted the enquiry under Section 202 of CR. P. C., and during the said enquiry police recorded the statement of Jaswant Singh-appellant, Gurdeep Singh and Harbans Singh. Defendant No. 1 Indor Bai had examined Jagdish Chander SI as DW 4 who had conducted the enquiry. Statement of Jaswant Singh is Ex. DW4/C wherein he had stated that Indro Bai is his aunt(tai) and in the said statement name of father of Jaswant Singh is mentioned as Gurdeep Singh. Statement of Gurdeep Singh is Ex. DW4/B and in the said statement it was stated by him that his brother Ranjeet Singh had no child. Statement of Harbans Singh is Ex. DW4/D in which it is stated that he put his seal and signature on residential and caste certificate of Dona [Singh](#) @Jaswant Singh. It was further stated that it was informed to him by Gurdeep Singh that his brother Ranjeet Singh adopted Gurdeep Singh's son Dona Singh.

Defendant No. 1 also examined Harbans Singh as DW 3 and he also stated that on residential and caste certificate Ex. DW3/A he had put his signature. He also stated that the person whose photo is pasted on Ex. DW3/A had not come to him.

After going through the impugned judgment, it is apparent that appellant Jaswant Singh is not the son of Ranjeet Singh and defendant No.1-Indro Bai and therefore, he is not entitled to take any share in the land owned and possessed by late Ranjeet Singh. No illegality, much less perversity has been pointed out in the judgments of the lower courts below, warranting interference by this Court.

No substantial question of law arises for consideration in this appeal.

Hence, appeal stands dismissed.

11.01.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *No*