

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.5324 of 2018 (O&M)

Date of Decision : 10.12.2018

Ajit Singh since deceased through his LRs.

..... Appellant

Versus

Ranjit Singh & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Sanjay Majithia, Senior Advocate with
Mr. Inderjeet Singh, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by respondent No.1.

The admitted facts are that Kesar Singh had three sons, Ajit Singh, Joga Singh and Darshan Singh and they were all co-owners of the land left behind by Kesar Singh. The appellants are the progeny of Ajit Singh (who incidentally are among the only branch of the family who had lived back in India) while the other branches of the family never lived in India (as is common in the District of Hoshiarpur). At one stage Ajit Singh had got entered an *Akhrajnama* in the revenue record stating that his brother Darshan Singh had not been heard of for many years. In or about the year 2000, dispute arose about the estate of Darshan Singh and ultimately respondent No.1 filed the instant suit claiming that he was the only son of

Darshan Singh and that he had inherited the property of his father. The case of the appellant on the other hand was of total ignorance. He stated that Darshan Singh had left the village many years ago and was never heard of. Clearly they were neither in a position to admit or deny that Darshan Singh had gone to Malaysia, that he had got married, that he had a son called Ranjit Singh or any of the above facts. He however alleged that respondent No.1 was not the son of Darshan Singh. In his evidence respondent No.1 produced his original birth certificate, the English translation of which was certified by the High Commission of India, the death certificate of Darshan Singh, the English translation of which was also attested by the High Commission of India, his employment papers and his passport and all of these showed him to be the son of Darshan Singh. The defendant No.2 in the suit was Jarnail Singh (the son of the 3rd son of Kesar Singh). Jarnail Singh was a resident of Canada and he first filed a consenting written statement and then came and testified that Ranjit Singh, respondent No.1 was infact the son of his uncle Darshan Singh. One Balwinder Singh also a resident of the same village appeared as PW-3 and also testified that Kesar Singh had three sons; that he knew all three of them; that Darshan Singh used to come to India once in a while and had last come in the year 1980 approximately when he had also informed him that he had a son called Ranjit Singh. As against this the respondents sought to corner Ranjit Singh when he appeared as a witness by suggesting to him that he had never come to India and by also suggesting to him that he knew no member of the family etc. etc. Both the Courts having held that the parentage of Ranjit Singh was established by a preponderance of probability, decreed the suit

Learned senior counsel has vehemently argued that there is no explanation how Jarnail Singh and Ranjit Singh ever came in touch because as per Ranjit Singh he knew no member of his family. He has further argued that another witness DW-2, who was the old class fellow of Darshan Singh had testified that he had never come back to India. Learned senior counsel has also argued that all the documents like the alleged birth certificate or death certificate clearly contain a recital by the High Commission that they do not verify the correctness of the information and therefore, these documents do not prove that Ranjit Singh was the son of Darshan Singh.

In my opinion, the argument has to fail. It can not be lost sight of that Ranjit Singh was not proving a criminal case, beyond all reasonable doubt. He had to establish his case on a preponderance of probability however slight it may be. The fact that the Ministry states that it does not certify the correctness of the documents is neither here nor there. The clinching determinant in this case is the testimony of Jarnail Singh. Admittedly Jarnail Singh was a co-beneficiary along with the appellant because if infact Darshan Singh had died issueless, both his brothers would have inherited his property. He unequivocally accepted the case of the respondents. The fact that he has not been able to prove how he came in touch with his first cousin is also neither here nor there.

Having been taken through the evidence and the judgments of the Courts below, I am not persuaded to hold that the findings of fact recorded by the Courts below are either based on no evidence or based on such a perverse misreading of evidence so as to justify the interference of

Appeal stands dismissed.

Since the main case has been decided, the pending Civil
Miscellaneous Application, if any, also stands disposed of.

10.12.2018
Pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No