

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

RSA No. 5869 of 2018(O&M)

Date of decision: 10.12.2018

Baljeet and othersAppellants

VERSUS

Ram Kishan and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Hardeep Singh Kasan, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.18342-C of 2018

Heard.

Allowed as prayed for.

Documents Annexure P-1 to P-6 are taken on record subject to just exceptions.

Disposed of accordingly.

RSA No.5869 of 2018

The present appeal directs challenge against concurrent findings recorded by the Courts whereby suit for declaration and permanent injunction filed by the appellants/plaintiffs sons of Ram Kishan – defendant No.1 by assailing the release deed dated 13.06.2013 executed by Sh. Ram Kishan in favour of Naresh son of Pawan son of Ram Kishan was dismissed by the trial Court vide judgment and decree dated 10.03.2016 and appeal preferred by unsuccessful plaintiffs/appellants did

not find favour with the Additional District Judge, Jhajjar and as a result findings of the trial Court were affirmed without variance.

The sole submission made by counsel for the appellants is that as land in question in the hands of Sh. Ram Kishan was ancestral coparcenary property, the plaintiffs/appellants acquired right therein by way of birth, therefore, Ram Kishan was not competent to execute release deed in favour of Naresh son of Pawan. To bring home his contention, counsel has two-fold submissions to make. It is argued that in the release deed executed by Ram Kishan, it is averred that the suit property is ancestral property. Counsel has also sought to place reliance upon mutation sanctioned in favour of Ram Kishan etc. qua inheritance to the estate of Badlu son of Mohar Singh, father of Ram Kishan.

Be that as it may, there cannot be any dispute about the settled position in law that every property in the hands of a holder is presumed to be his self-acquired property unless proved otherwise. Equally settled is that admission made by a contesting party with regard to nature of suit property is not sufficient to accept the plea that suit property is ancestral coparcenary property. In the given scenario, the appellants cannot derive any advantage to their contention from any such recital in the release deed executed by Ram Kishan in favour of Naresh son of Pawan.

Coming to the document Annexure P-2 i.e. mutation sanctioned in the year 1976 with regard to inheritance to the estate of Badlu, it is evident that property left behind by Badlu was inherited by his class I heirs including daughters after commencement of the Hindu Succession Act, 1956. That being so, property inherited by each one of the class I heirs shall be treated as personal property of the owner concerned.

This apart, counsel for the appellants has failed to point out if the property subject matter of mutation Annexure P-2 can be connected with the suit property as in the document Annexure P-2, there is no reference to the khasra numbers but the same refers to khata of previous jamabandi and that of new jamabandi. Analyzed from any angle, I do not find an error much less perversity in the findings recorded by the Courts that would call for intervention.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs. As the appeal has been decided on merits, the application for condonation of delay in filing the appeal is of academic relevance only.

DECEMBER 10, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no