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

**RSA No.1846 of 2019 (O&M)
Date of Decision:01.11.2019**

RISHI RAJ

.....Appellant

Vs

MUNICIPAL COMMITTEE AND OTHERS

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Abhayveer Sharma, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. This Regular Second Appeal has been preferred by the plaintiff against the concurrent judgments and decrees passed by the Courts below.

[2]. Brief facts are that the plaintiff filed a suit for declaration with consequential relief of permanent injunction seeking decree of declaration to the effect that order dated 07.11.2014 passed by defendants No.1 to 3 was illegal, null and void and the same was not binding upon rights of the plaintiff. Decree for permanent injunction was also sought, seeking to restrain the defendants from interfering in peaceful possession of the plaintiff over the suit property and also to restrain defendant

No.4 from registering the sale deed on the basis of assessment of M.C. Meham regarding the suit property detailed in the headnote of the plaint. Plaintiff claimed that he is owner in possession of the property No.128, (new No.51C77U113) situated at Ward No.1, Meham, Tehsil Meham, District Rohtak having defined boundaries. Plaintiff claimed the aforesaid property to be ancestral property and in the municipal record name of Amar Singh was wrongly recorded and the entries were stray entries as no such person ever resided in Meham.

[3]. Plaintiff further claimed that he has paid the assessment fee of Municipal Committee, Meham vide receipt No.39 dated 28.12.2013 and electricity connection also stood in his name on the strength of receipt No.075542 dated 14.08.2014. Electricity connection was installed after due verification and no objection was put up by the Secretary, Municipal Committee, Meham.

[4]. Defendants No.5 and 6 claimed the ownership of the suit property and also filed an application before defendants No.1 to 4 by claiming themselves to be legal heirs of Amar Singh son of Ballu Ram on the basis of death certificate of Amar Singh submitted by them.

[5]. After assertion and denial by the parties, both the

parties went to trial on definite issues.

[6]. The claim with regard to ancestral nature of property by the plaintiff could not be substantiated for want of production of Excerpt(*Intekhab*)/pedigree table, as per requirement of Volume 1, Chapter 9, Rules 5 & 6 of High Court Rules and Orders, and as per para No.232 of Mulla's Law. The plaintiff has to stand on his own legs and cannot take benefit of weakness of defendants case. Defendants No.5 and 6 claimed ownership on the strength of Ex.D-10 i.e. document with regard to partition executed on 19.06.1960 vide which the property was devolved upon Amar Singh son of Ballu Ram. The aforesaid document being more than 30 years of old has to be considered as correct under Section 90 of Indian Evidence Act. The document was produced through proper custody and was not tainted by any fraud or suspicion. In the record of Municipal Committee, i.e. assessment register for the year 1965-66 (Ex.D-3), 1974-75 (Ex.D-4), 1982-83 (Ex.D-5), 1987-88 (Ex.D-6), 1993-94 (Ex.D-7), 1999-2000 (Ex.D-8), name of Amar Singh son of Ballu was recorded as owner of the suit property situated at Ward No.1 of Meham. The claim of defendants No.5 and 6 was denied by the plaintiff solely on the ground that name of father of defendants No.5 and 6 was shown to be A.P. Shukla, whereas in the municipal record, the same was recorded as

Amar Singh son of Ballu Ram.

[7]. As per death certificate (Ex.P-6), name of Amar Singh has been described as Amar Singh Prem Nath Shukla. The certificate issued by the Central Railway (Ex.P-7), matriculation certificate of Amar Singh Prem Nath Shukla (Ex.D-1), Secondary Examination certificate of defendant No.6 Santosh Kumari (Ex.D-11), PAN card of defendant No.6 (Ex.D-14), matriculation certificate of defendant No.5 Shushila Kumari (Ex.D-16), service certificate of defendant No.6 Santosh Kumari (Ex.D-12), Intermediate certificate of defendant No.5 (Ex.D-17) and Diploma certificate of defendant No.5 (Ex.D-18 and Ex.D-19) would show that name of father of defendants No.5 and 6 was Amar Singh Prem Nath Shukla and the aforesaid name was also to be written as A.P. Shukla. This fact was apparent in view of certificate issued by the Central Railway (Ex.P-7), wherein name of A.P. Shukla was shown as husband of Ganpati Devi in full as Amar Singh Prem Nath Shukla. In Ex.P-5 i.e. the death certificate of Ganpati Devi, name of her husband was mentioned as Amar Singh Shukla. In view of all these documents, it was abundantly proved on record that A.P. Shukla and Amar Singh Prem Nath Shukla and Amar Singh son of Ballu Ram was one and the same person. Defendants No.5 and 6 have proved the name of their father to be Amar Singh

son of Ballu Ram from whom they have inherited the property in the year 1960. The said fact has been corroborated from the house tax assessment record maintained by the municipal committee in respect of the suit property in the name of Amar Singh son of Ballu Ram since the year 1965.

[8]. The site plan produced by the plaintiff was suggestive of the fact that one plot of Jagat Kala was in existence towards eastern side of the suit property and the defendants have placed on record the sale deed vide which Jagat Kala had purchased the eastern side of the plot (Ex.D-20). The aforesaid fact would show that in the western side of the plot of Jagat Kala, there was a plot of Ballu. Sale deed (Ex.D-20) was executed in the year 1981. Apparently in the year 1981 also, the suit property was shown to be in the name of Ballu Ram i.e. father of Amar Singh Prem Nath Shukla and grandfather of defendants No.5 and 6. Municipal Committee has already considered the claim of the plaintiff viz-a-viz. defendants No.5 and 6 and after proper inquiry, the entry of property was changed in the name of defendants No.5 and 6 in accordance with law vide order dated 07.11.2014.

[9]. Both the Courts below have recorded firm finding of fact based on evidence. The claim of the plaintiff with regard to ancestral nature of the property could not be substantiated by

the plaintiff by leading any cogent evidence, nor the property could be proved by the plaintiff to be owned and possessed by him on the basis of any title. The finding of fact recorded by both the Courts below cannot be found to be perverse or the result of any misreading of evidence. No law point worth cognizance is involved in the present appeal. The appeal is found to be totally devoid of merits and is accordingly dismissed.

[10]. Since the appeal has been dismissed on merit, therefore, there is no necessity to pass any order in the applications for condonation of delay in re-filing and filing of the appeal. All other misc. applications, if pending are accordingly disposed of.

November 01, 2019

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No