

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.1592 of 2000 (O&M)
Date of Order:25.02.2019

Jahur Khan and others

..Appellants

Versus

Mangal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagdish Manchanda, Advocate,
for the appellants.

ANIL KSHETARPAL, J.

C.M.No.1597-C-2019 &
RSA No.1592 of 2000

Prayer in this application is for restoration of the appeal.

For reasons mentioned in the application, which is supported by an affidavit, the application is allowed and the appeal is restored to its original number. The appeal is taken up on Board for final disposal. Arguments have been heard in the main appeal.

MAIN

Plaintiffs-appellants are in the regular second appeal against the concurrent findings of fact arrived at by both the courts below, dismissing a suit filed by them for declaration and permanent injunction as a consequential relief.

Undisputedly, late Sh. Manphool son of Fateh Khan was owner in possession of the suit land. It is claimed that Manphool was a Meo by caste and governed by agricultural custom who died without having issue

leaving his wife Nazarbi, who inherited life estate. Validity of the judgment and decree suffered on 20.08.1974 with respect to land measuring 33 kanals 13 marlas has been challenged.

Both the courts on appreciation of evidence have found that defendant no.4 Ikramuddin is son of Fatima daughter of Manphool. Therefore, it is established that Manphool did not die issueless. The courts have further found that the plaintiffs have failed to prove that the property is ancestral. The courts have also held that if a Meo dies, his daughter would be preferred in place of collaterals. Still further it has come in evidence that earlier also a suit was filed by 2 collaterals, namely, Mangal and Deen Mohd., who are defendants no.1 and 2 (defendant no.2 is son of Sardara). In the aforesaid suit, in regular second appeal before the high court, a compromise was arrived at and the rights of Nazarbi were acknowledged. Nazarbi was declared to be having life interest only with respect to land measuring 57 kanals 2 marlas which would come to the collaterals. Now the present plaintiffs claim that the entire property which was owned by Manphool, was ancestral. Plaintiffs in this case have failed to prove that the property was ancestral.

Both the courts on appreciation of the evidence have recorded a finding of fact which is not shown to be erroneous or suffering from any perversity. Hence, there is no good ground to interfere. The regular second appeal is dismissed.

February 25, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No