

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

RSA No.152 of 1998 (O&M)

Date of decision : 30.01.2019

Parbhu and others

...Appellants

Versus

Balbir (since deceased) through his LRs and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Majithia, Sr. Advocate with
Mr. Inderjeet Singh, Advocate for the appellants.

Mr. Munish Kumar Garg, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-appellants are in the Regular Second Appeal against the concurrent findings of fact arrived at by both the Courts below dismissing the suit filed by them for declaration claiming that they are owners in possession of 1/6th share of the land measuring 99 kanals and 13 marlas as described in the plaint.

It is claimed that initially in the year 1920, 37 bighas pukhta land was purchased in an auction but it was recorded in the name of Lambardar, however, in the year 1935, record of the auction was prepared and it was recorded that family of Nathu as well as Bhola Singh are owners to the extent of equal share. However, in mutation No.970 sanctioned in the year 1948, share of family of the plaintiffs was reduced to 2/5th share

whereas family of Bhola Singh was increased to $\frac{3}{5}$ th share.

Learned counsel has further drawn attention of the Court to revenue record of pre and post consolidation which records share of both the families to the extent of equal share.

Both the Courts on appreciation of the evidence have found no substance in the case set up by the plaintiffs. It may be relevant to note here that Ex.P5 is a mutation sanctioned in the year 1948 wherein for the first time, the share of two families were changed from half and half to $\frac{2}{5}$ th and $\frac{3}{5}$ th. This mutation refers to the judgment of the Court dated 22.10.1946. The aforesaid judgment has not been produced. Plaintiff No.8-Soran while appearing in evidence has stated that difference in the share was recorded on account of a Civil Court decree which he had seen and handed over to his counsel. However, the decree passed in the year 1946 has not been produced.

In such circumstances, once the plaintiffs have failed to produce the basic document, therefore, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below.

Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

30.01.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No