

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

RSA No.1892 of 2019(O&M)

Date of decision: 29.5.2019

Harjit Singh

.....Appellant

VERSUS

Himmat Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. H.P.S. Ghuman, Advocate for the appellant.

REKHA MITTAL, J.

CM No.5128-C of 2019

Prayer in this application is for condoning delay of 109 days in re-filing the appeal.

Heard.

In view of averments made in the application, the same is allowed. Delay of 109 days in re-filing the appeal stands condoned.

Disposed of accordingly.

RSA No.1892 of 2019

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for declaration and permanent injunction filed by the plaintiff on the premise that he is entitle to 1/5th share out of land measuring 72 kanal 17-5/6 marlas ancestral coparcenary property being one of the coparceners and challenge to transfer deed dated 18.12.2002 executed by Sh. Maghar Singh in favour of defendants No.1 to 3 and mutation sanctioned on the basis thereof, was

dismissed by the trial Court vide judgment and decree dated 09.09.2016 that came to be affirmed in appeal by the Additional District Judge, Ludhiana vide judgment dated 09.07.2018.

Perusal of impugned judgments leaves no manner of doubt that the appellant/plaintiff staked his claim to the suit land solely on the ground that the same was ancestral coparcenary property in the hands of Sh. Maghar Singh in which he being son of Nirmal Singh (since deceased) and grandson of said Maghar Singh acquired right by way of birth.

The appellant examined Rajinderpal Singh, Special Kanungo, to prove excerpt prepared by him and he produced documents Ex.P1 to P3. Counsel for the appellant would fairly concede that in view of testimony of Rajinderpal Singh and documents produced by him would not advance cause of the appellant to prove the suit land to be ancestral coparcenary property in the hands of Sh. Maghar Singh. During the course of hearing, counsel for the appellant has shown photocopy of Jamabandi for the year 1971-72 wherein land has been recorded to be ownership of Surmukh Singh son of Hazara Singh son of Wazira. However, the appellant did not produce any document to prove that land recorded to be ownership of Surmukh Singh was inherited by Maghar Singh on the basis of natural succession. In the given circumstances, the appellant cannot derive any advantage to his contention from the Jamabandi for the year 1971-72, even if the same is allowed to be produced on record by way of additional evidence. In this view of the matter, I do not find an error much less perversity in consistent findings recorded by the Courts, warranting intervention in second appeal.

For the foregoing reasons, finding no merit, the appeal fails
and is accordingly dismissed in limine.

MAY 29, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

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