

RSA No.4267 of 2019

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

RSA No.4267 of 2019
Date of decision: 30.10.2019

Kuldeep Singh @ Kuldeep Singh Deo

.....Appellant

versus

Amar Kaur (deceased) through LRs and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Ms. Shubreet Kaur, Advocate,
for the appellant.
Mr. Vivek Gupta, Advocate,
for caveator-respondents No.1 and 2.

RAMENDRA JAIN, J. (ORAL)

Through this Regular Second Appeal, appellant has laid challenge to judgment and decree of the lower appellate Court dated 09.05.2019, affirming judgment and decree of the trial Court dated 30.09.2016, whereby suit for declaration and partition of the suit land, fully detailed in headnote of the judgment of trial Court, filed by appellant and proforma respondents No.3(i) to (vii), was dismissed.

Briefly, initially the suit land was joint amongst appellant, deceased Pargan Singh, Swaran Singh and Gurnam Singh. According to respondents No.1 and 2-defendant, it had already been partition vide writing dated 30.04.1993, on the basis whereof mutation No.2256 was sanctioned, showing separate shares of the parties.

Appellant-plaintiff being aggrieved of the said claim of the defendants, filed a suit for declaration alleging that aforesaid writing dated

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30.04.1993 was a forged document as it was never signed by them. Consequently, mutation No.2256 sanctioned on its basis was also illegal, null and void, having no binding effect upon them. Consequently, aforesaid writing and mutation were liable to be set aside, declaring that the suit land was still joint amongst the parties.

Trial Court, after holding trial, dismissed the suit vide judgment and decree dated 30.09.2016.

Being aggrieved, appellant approached the lower appellate Court, but remained unsuccessful as his appeal too was dismissed vide judgment and decree dated 09.05.2019.

Learned counsel for the appellant *inter alia* contends that taking advantage of absence of the appellant, as long back he left India for Canada, respondents-defendant on the basis of forged writing dated 30.04.1993 got sanctioned mutation No.2256, illegally, showing partition of the suit land amongst the parties. Both the Courts below have illegally relied upon aforesaid writing and mutation, ignoring the fact that original of the said writing never saw light of the day.

On the other hand, learned counsel for the caveator-respondents pleaded legality and validity of the impugned judgments and decrees of the Courts below.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

Appellant Kuldeep Singh appearing as PW2 before the trial Court categorically admitted that he had seen writing dated 30.04.1993 in

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the year 1993 itself. Thus, it is evident on the record that alleged writing on the basis of which, mutation of partition of land bearing No.2256 was sanctioned had come to the knowledge of the appellant in the year 1993 itself, but, he filed suit in the year 2011, i.e., after around 18 years. Therefore, both the Courts below have rightly held the suit to be hopelessly time-barred. Further, appellant has admitted during his cross-examination that he has got his share of 43 kanals, Gurnam Singh 41 or 42 kanals and widow of Pargan Singh, namely, Amarjit Kaur 46 kanals of land.

From the evidence on record, it is also apparent that writing dated 30.04.1993 was duly signed by the appellant-plaintiff, but, he with *mala fide* intention, did not identify his signature thereon. In case, appellant had not signed the said writing, he must have examined some handwriting and fingerprint expert to prove that his signatures on the said writing were forged and fabricated, but he did not adopt any such exercise. Therefore, in such circumstances, adverse inference is required to be drawn to the effect that said writing bore his signature.

More importantly, it has never been the case of the appellant that vide writing dated 30.04.1993, he was not given his due share. Rather, he candidly admitted that he got his share of 43 kanals out of the joint holding of parties. Thus, when the said writing, does not in any manner, legally affect the rights of the appellant, the same has certainly a binding effect upon him.

No question of law much less substantial has been raised in this appeal. Hence, same is held not maintainable.

I have gone through impugned judgments of both the Courts

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below and find no illegality or perversity in the same.

Dismissed.

(Ramendra Jain)
Judge

October 30, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No