

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

**RSA No.2286 of 2015 (O&M)
Date of Decision.29.01.2019**

Naurang Singh

...Appellant

Vs

Magna and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sanjay Mittal, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The present appeal is directed against the concurrent finding of fact whereby the suit of the respondents-plaintiffs for declaration of 1/3rd share in the land measuring 74 kanals 7 marlas has been decreed by the trial Court and affirmed by the lower Appellate court.

It was alleged that Jeet Singh had three sons namely Mangej Singh, Mal Singh and Rameshar Singh. On demise of Jeet Singh, who died intestate, all of them had 1/3rd share. Plaintiffs asserted that out of 24 kanals 16 marlas, land measuring 17 kanals 13 marlas was sold by Mangez Singh and left with 7 kanals 3 marlas whereas Mal Singh had sold in excess of his share.

Appellant-defendant No.9 opposed the suit and asserted that vide sale deed dated 26.09.1977, Rameshwar and Mal Singh alienated 6 kanals 7 marlas to Ganesh. The total holding of land was 95 kanals 8 marlas and not 74 kanals 7 marlas as alleged.

Mr. Sanjay Mittal, learned counsel appearing on behalf of the appellants submitted that though on examination of certain

documents, which are not part of the record, it revealed that many sale deeds during the interregnum had been effected and possibility of selling out of excess share by Mal Singh and Rameshwar Singh cannot be ruled out. No explanation has come on record by plaintiffs with regard to 95 kanals 8 marlas as reflected in the jamabandi for the year 1965-66, though the revenue court is ceased of the partition proceedings.

I am afraid aforementioned argument would not be maintainable, as concededly all the three brothers Mangez Singh, Mal Singh and Rameshwar Singh had 1/3rd share. It was obligatory upon them to bring on record all the sale deeds connecting the area referred to in the jamabandi for the year 1965-66. In the absence of the same, Courts below had no occasion but to determine their entitlement of 1/3rd share in respect of 74 kanals 7 marlas.

In view of such circumstances, I do not find any illegality and perversity in the judgments and decrees rendered by the Courts below, much less, no substantial question of law arises for determination by this Court. No ground for interference is made out. Resultantly, the second appeal is dismissed.

(AMIT RAWAL)
JUDGE

January 29, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No