

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

**RSA No.4560 of 2016 (O&M)
Date of Decision.11.03.2019**

Swaran Singh (deceased) through LRs

...Appellant

Vs

Inderjit Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashish Gupta, Advocate
for the appellant.

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AMIT RAWAL J. (ORAL)

The present regular second appeal is directed against the judgment and decree of the lower Appellate Court whereby the suit of the appellant-plaintiff decreed by the trial Court has been dismissed.

The plaintiff challenged the decree dated 16.02.1982 suffered in Civil Suit No.3 of 1982 titled “Inderjit Singh Vs. Hardayal Singh” regarding suit property with regard to half share in the land measuring 11 biswas bearing Khasra No.113 on the premise that his father Hardayal Singh was holding the same being ancestral in nature.

Defendants contested the suit and admitted the property to be ancestral but in the family settlement fell to his share.

On the basis of aforementioned admission and various other documents, trial Court decreed the suit.

Mr. Ashish Gupta, learned counsel appearing on behalf of the appellant submitted that sole reason for dismissal of the suit was that plaintiff in the absence of any admission did not place on record any material to show nature and character of the property but remained oblivious of the fact that decree of 1982 required

registration as it could not confer right in respect of property having value of more than ₹100/-.

I am afraid aforementioned argument is not sustainable as the beneficiary of the decree is none else but brother of the appellant, who had pre-existing right. It is not case of gift which required registration in view of ratio decidendi culled out by Hon'ble Supreme Court in **Phool Patti and another Vs. Ram Singh (dead) through LRs and another (2015) 3 SCC 164.**

Mere admission in written statement would not dispense with onus in case where plaintiff claimed nature and character of property to be ancestral. There has to be direct and cogent evidence that his father Hardayal Singh was holding the property from three ancestors and he being 4th generation in lineage had any right. No revenue excerpt has been placed on record to prove the same.

In view of such circumstances, finding rendered by the lower Appellate Court being the last court of fact and law cannot be said to be suffering from illegality and perversity, 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

March 11, 2019
Pankaj*

Whether Reasoned/Speaking Yes

Whether Reportable No