

**RSA-1806-2017 (O&M)**

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

**RSA-1806-2017 (O&M)**

**Date of decision : 11.02.2019**

Rajinder Singh

... Appellant

Versus

Kulwinder Singh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Yashjot S. Dhaliwal, Advocate  
for the appellant.

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**AMIT RAWAL, J. (ORAL)**

The appellant-plaintiff has not been successful in claiming joint owner in possession of land to the extent of 1/6<sup>th</sup> share, by laying challenge to the registered transfer deed dated 19.05.2010 executed by Jarnail Singh in favour of Kulwinder Singh/defendant No.1 along with consequential relief of injunction.

It was alleged that Jagir Singh son of Chanan Singh had one son, namely, Jarnail Singh/defendant No.2. Jarnail Singh had two sons, namely, Rajinder Singh-plaintiff and defendant No.1-Kulwinder Singh and three daughters, defendant Nos.3 to 5. Jagir Singh, grand father of the plaintiff, was co-owner in his possession in respect of land situated in Village Dhani Pind, Tehsil, Phillaur, District Jalandhar. The plaintiff acquired the knowledge in the month of May 2010, when the defendants threatened to disentitle him from his share, which was previously owned by

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defendant No.2, as he was not competent to transfer the suit land, in favour of defendant No.1 being ancestral and therefore, the plaintiff and defendant No.1, had a right by birth.

Defendant No.2 opposed the suit by taking various preliminary objections and on merits, it was stated that he was the owner of the property and had a right to transfer in favour of defendant No.1 as grandfather of the plaintiff had no concern with the suit property nor he was the owner.

The plaintiff in support of his case, examined himself as PW1 and brought on record various documents Ex.P1 to P10 and in rebuttal, Ex.P11 to Ex.P19, whereas the defendants examined two witnesses and brought on record various documents Ex.D1 and Ex.D2.

Mr. Yashjot S. Dhaliwal, learned counsel for the appellant-plaintiff submitted that the defendants had admitted Jagir Singh as grandfather of the plaintiff inherited the property from Chanan Singh, their great grandfather, therefore, the property was ancestral and the plaintiff being 4<sup>th</sup> generation in lineage had a right by birth. Ex.P11/A and Ex.P13/A, translation of the revenue record reflected the acquisition of the property by Chanan Singh and subsequent transfer in favour of Jagir Singh and so on so forth. Jarnail Singh could not have transferred the share of Satnam Singh, other brother, as he had a living mother, who died in the year 2014, therefore, the property, as per the provisions of Section 8 of the Hindu Succession Act, would devolve upon her. Share of Satnam Singh could not be usurped.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book and of the view that Ex.P11/A to Ex.P13/A are of pre-consolidation and no *khatauni hakdar* has been placed on record to

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assignment of new khasra numbers to connect the nature of the transaction. As per Schedule II of Section 8 of the Hindu Succession Act, the brother is the first co-lateral, thus, had a right to inherit. Satnam Singh died issueless and unmarried, being brother of Jarnail Singh, his share would have devolved upon defendant No.2. The plaintiff miserably failed to place on record revenue excerpt, which is a mandatory requirement of law as per the High Court Rules and Regulations and acknowledged by this Court in **“Banta Singh V/s Phuman Singh and others” 1972 PLJ 275**, to prove the pedigree as well as the character and nature of the property as ancestral. In the absence of the same, in my view, the registered transfer deed by Jarnail Singh/defendant No.2 in favour of Kulwinder Singh/defendant No.1, cannot be said to be out of the ancestral property.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

**11.02.2019**  
Yogesh Sharma

**( AMIT RAWAL )**  
**JUDGE**

Whether speaking/reasoned    **Yes/ No**

Whether Reportable            **Yes/ No**