

RSA No. 249 of 2018 (O&M)

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

RSA No. 249 of 2018 (O&M)

Date of decision: 03.10.2019

Sunita alias Angrejo

... Appellant

Versus

Santosh alias Kamlesh Devi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Jitender S. Chahal, Advocate
for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the appellant-plaintiff was dismissed by the trial court, vide judgment and decree dated 11.2.2013, and as even the appeal preferred against the said decree failed and was dismissed on 11.4.2017, she is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

The plaintiff prayed for a declaration that she was owner in possession of the suit land, measuring 5 kanals 14 marlas, being half share of a land measuring 11 kanals 8 marlas and 1/5th share out of the total land measuring 56 kanals 19 marlas.

In brief, her case was that Radha Ram was the original owner in possession of the suit property. He had two daughters, namely Raj Kumari and Santosh @ Kamlesh Devi (defendant No.1). Plaintiff is the daughter of Raj Kumari, who died in 1975, during the lifetime of Radha Ram. Laxmi Devi, wife of Radha Ram, also passed away on 3.10.1988. Plaintiff, post her

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marriage, was living at Shahbad with her husband. Defendant No.1, in connivance with some outsiders, succeeded in getting the estate of Radha Ram mutated in her name, vide mutation No. 338 dated 15.6.1994. She sold the share of plaintiff, i.e. 5 kanals 14 marlas, to defendant No.2 by claiming herself to be the absolute owner of the estate of Radha Ram. Thus, the sale deed dated 22.7.2003 was illegal, null and void. Thus, the suit.

In defence, defendant No.1 pleaded, *inter alia*, that Radha Ram had only one daughter, namely Kamlesh Devi (defendant No.1) and there was no other daughter of the deceased. Plaintiff was a stranger to defendant No.1 and had no relation with her. Therefore, the suit filed by the plaintiff was liable to be dismissed.

Upon consideration of the matter in issue and evidence on record, both the courts concurrently concluded that plaintiff failed to place on record any document that could prove relationship of plaintiff with Radha Ram. Not just that, she even failed to prove her relationship with her alleged mother, namely Raj Kumari. Undoubtedly, plaintiff examined her father, Jagpal Singh (PW6), who deposed that he was married with Raj Kumari, and her daughter, i.e. Sunita, was born in 1972. However, he failed to prove the relationship of plaintiff (Sunita), with Radha Ram and even with Santosh (defendant No.1). Still further, no evidence was led to show if Santosh (defendant No.1) was also known as Kamlesh. Although documents (Ex.P1 and Ex.P2) revealed that Santosh studied in the same school as Raj Kumari, who alleged to be the mother of the plaintiff, but nothing was brought on record to show that Santosh was Kamlesh. Though, reliance was placed on a birth certificate dated 28.8.1972, but the plaintiff again failed to connect herself with Angrejo, whose name was depicted in the said document. That

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being so, apparently, the plaintiff failed to prove herself to be the daughter of Raj Kumari and most importantly, late Radha Ram, besides defendant No.1, had another daughter (Raj Kumari). That being so, the only and the inevitable conclusion that could be reached: the plaintiff failed to substantiate her claim for lack of evidence.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the findings recorded by both the courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

October 03, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO