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

**RSA No.4317 of 2018 (O&M)
Date of Decision: 08.07.2019**

**Gandharab Singh (Dead) through his LRs
.....Appellants**

Vs

**Karnail Singh and others
....Respondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. G.S. Gandhi, Advocate
for the appellants.

Mr. Piyush Aggarwal, Advocate for
Mr. Prabhjot Singh, Advocate
for the caveators-respondents.

RAJ MOHAN SINGH, J.

[1]. Plaintiffs are in Regular Second Appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration, joint possession and for permanent injunction.

[2]. Plaintiffs filed the aforesaid suit on the ground that Ravi Dayal was original owner in possession of the suit land. In consolidation proceedings, the suit land/khasra numbers were mapped out from the old khasra numbers. Rama and Udham Singh were two brothers. Rama had two sons namely Ravi

Dayal and Suraj Singh. Suraj Singh had died even before the demise of Ravi Dayal and his estate was inherited by his three sons namely Dharam Singh, Shiv Darshan and Puran Singh. Dharam Singh had five sons namely Jaswant Singh, Narinder Singh, Ishar Singh, Bhim Singh and Adit Singh. Jaswant Singh, Narinder Singh, Ishar Singh and Adit Singh had already died. Jaswant Singh was survived by his son Moti Singh and Narinder Singh was survived by his two sons namely Parbhat Singh and Yuvraj Singh. Ishar Singh had died in the year 1991 and was succeeded by his four sons namely Pritam Singh, Dalip Singh, Himmat Singh and Charanjit Singh. On the death of Adit Singh, his estate was inherited by his son Vikram Singh, daughter Rittu and wife Bimla.

[3]. It was pleaded that Shiv Darshan Singh had expired in the year 1980 and had four sons namely Naraiyan Singh, Raghunath Singh, Gandharab Singh and Sansar Singh, out of whom Naraiyan Singh and Sansar Singh had died. Naraiyan Singh had two sons namely Yudhistar Singh and Sanwar Singh. Onkar Singh and Shakti Singh were the sons of Sansar Singh. Puran Singh (since deceased) married twice. Sant Singh was the son of Puran Singh from the first wife and Shamsheer Singh was the son from his second wife. Sant Singh had died in the year 1995 and was survived by three sons namely Karnail

Singh, Rajinder Singh and Karam Singh. Karmo Devi and Sheela Devi were the daughters of the deceased. Rajinder Singh had died and Arun Singh and Varun Singh were his two sons. Raghunandan Singh and Amit Singh were the two sons of Karnail Singh.

[4]. It was further pleaded that Ram was a Rajput by caste and was predominantly governed by customary law of the State as applicable to the agricultural tribe. Land in the hands of Rama was ancestral in nature having descended to him from his own ancestors and same was the position of his brother Udham Singh, who had died intestate and issueless. Mahan Devi was his widow. Estate of Udham Singh was inherited by Ravi Dayal and Suraj Singh in equal shares. Ravi Dayal like his father was governed by the customary law. Ravi Dayal died issueless and intestate in the year 1940. There was no male or female issue of deceased Ravi Dayal. Under the customary law his property was inherited by three sons of his brother Suraj Singh in equal shares and they became owner in possession of the same. Plaintiffs claimed themselves to be the owner in possession of the suit land in the aforesaid manner and filed the suit in question.

[5]. It was also pleaded in the suit that the entry in the revenue record were contrary to the factual position and were

liable to be corrected as the same are not binding upon the plaintiffs. Defendants No.1 to 10 had no right, title or interest in the suit property. Mutation No.388 in village Manwal and mutation no.62 in vilalge Chak Madho Singh were wrongly recorded and sanctioned in the name of Phiko as she had wrongly claimed herself to be widow of Ravi Dayal.

[6]. The suit was contested by the defendants by denying the claim of the plaintiffs. The land in question was gifted and sold to various defendants by Smt. Phiko Devi. All the transferees in-interest have not been impleaded in the suit. About 80% of the holding in Chak Madho Singh has already been sold to different vendees and whose names have been recorded in the revenue records/jamabandies. The successor-in-interest of Phiko Devi i.e. defendants No.1 to 10 and other vendees are shown to be in separate possession of the land in village Chak Madho Singh as per their shares. Phiko Devi died on 30.06.1975 as widow of Ravi Dayal. Phiko Devi and Ravi Dayal also inherited half share of land of Maha Devi widow of Udham Singh.

[7]. Learned counsel for the appellants by referring to the revenue records only submitted that the evidence led by the defendants ought not to have been relied upon by the Courts below.

[8]. I have considered the submissions made by learned counsel for the parties.

[9]. The facts involved in the suit are of great intensity and background for which the plaintiffs were required to lead cogent evidence to show connectivity of the land in question with reference to the persons from time to time. Plaintiffs have not led any cogent evidence except to examine Prem Singh as PW-1 and Yudhishtar Singh as PW-2 besides tendering jamabandi for the year 1997-98 of village Chak Madho Singh Ex.P-1 and copy of jamabandi for the year 1999-2000 of village Manwal as Ex.P-2 and copy of jamabandi for the year 1998-99 of village Chak Madho Singh as Ex.P-3. No pedigree table and other documents of title were tendered in order to show that the gift deeds and sale deeds executed by Phiko Devi from time to time were illegal. Even subsequent transferees/vendees have not been impleaded in the suit.

[10]. The mutations which were sanctioned more than 30 years ago are sought to be assailed without there being any cogent evidence to that effect. Plaintiffs have filed the suit by claiming themselves to be successors of Ravi Dayal as Ravi Dayal had died unmarried and issueless and they have succeeded the estate of Ravi Dayal. Plaintiffs examined only Prem Singh and Yudhisthar Singh as PW-1 and PW-2

respectively. Ravi Dayal had died in the year 1940. At the time of death of Ravi Dayal, the witnesses were hardly of 2 or 3 years old. Factum of their great-great grandfather being unmarried or otherwise could not be known to them.

[11]. Defendants have produced revenue records, mutations of inheritance of Ravi Dayal in favour of Phiko Devi being widow. Those mutations were duly attested by Dharam Singh grandfather of the plaintiffs as Ex.D-18 and Ex.D-19. The documents being more than 30 years old and being prepared by the Govt. officials in discharge of their official duty cannot be ignored. Dharam Singh Nambardar, who was grandfather of the plaintiffs attested the aforesaid document and the said fact could not be denied by the plaintiffs. The revenue records prepared by the revenue officials in discharge of their public duty has presumption of correctness under Section 44 of the Punjab Land Revenue Act. The onus was on the plaintiffs to lead evidence to the contrary. Plaintiffs have not led any such incriminating evidence to rebut the presumption of correctness of revenue records which was maintained by the public servants in discharge of their public duty.

[12]. After the amendment in Succession Act, Phiko Devi became absolute owner of the suit land under Section 14 of the Hindu Succession Act. Plaintiffs never remained in possession

of the suit land as admitted by them in their cross-examinations. Even the plaintiffs themselves have claimed alternative relief of possession showing them to be not in possession. It is a settled principle of law that the plaintiffs cannot take benefit from the weakness of defendants case. They are supposed to stand on the strength of their own case. Plaintiffs have not led any such evidence to prove their title to the suit property.

[13]. Mutations Ex.D-18 and Ex.D-19 were sanctioned on the statement of Dharam Singh Nambardar, who was none else, but the grandfather of the plaintiffs. Revenue officials sanctioned the mutations. Phiko Devi had appeared before the Revenue Officer and Dharam Singh duly recognized her being widow of Ram Dayal. After confirming the said relationship, the Revenue Officer had sanctioned the mutations. Mere allegation that Ravi Dayal had died unmarried and issueless could not be proved by the plaintiffs. Ravi Dayal had died in the year 1940. Both of the plaintiffs' witnesses were hardly 2 or 3 years old.

[14]. Both the Courts below have found that the plaintiffs have miserably failed to adduce any such evidence in support of their case. Even during course of arguments, learned counsel for the appellants could not point out any such incriminating evidence led by the plaintiffs so as to advance their case viz-a-viz. title to the suit property. It was the plaintiffs duty to prove

their case. Plaintiffs have not impleaded subsequent transferees/vendees. Three gift deeds and more than 100 transactions have taken place after inheritance of the property of Phiko Devi.

[15]. The case law cited by learned counsel for the appellants i.e. **Avtar Singh vs. Indian Sulphacid Industries Ltd., 2018(1) PLR 331** and **L.I.C. of India & Anr. vs. Ram Pal Singh Bisen, 2010(2) R.C.R. (Civil) 459** have no application as the facts are entirely different. The present case is fully oriented on facts which were required to be proved by the plaintiffs themselves.

[16]. In view of aforesaid, no law point worth cognizance is involved in this appeal. The appeal is found to be totally devoid of merits and is accordingly dismissed.

July 08, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No