

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

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RSA No.6016 of 2018 (O&M)
Decided on : 24.07.2019

Kuldeep Singh

... Appellant

Versus

Sukhdev Singh and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE RAMENDRA JAIN

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

Ramendra Jain, J. (Oral)

Unsuccessful plaintiff, appellant herein has filed this Regular Second Appeal against judgment and decree of the lower Appellate Court dated 25.4.2018 affirming the judgment and decree dated 15.12.2015 of the trial court, whereby his suit for declaration was dismissed.

Briefly, the appellant filed suit to declare him owner of land measuring 18 kanals 4 marlas, being 1/10th share out of total land i.e. 182 kanals 03 marlas situated in the village Ajitwal Tehsil & District Moga on the ground that it was a coparcenary property, therefore any sale/transfer deed executed by respondent No.2 in favour of respondents No. 4 to 11 was illegal, null and void.

It was averred that initially the suit land was owned by Sucha Singh. After his death in the year 1985, his estate devolved upon respondent No.2 Jagir Singh vide mutation No.8584 dated 28.7.1985. Therefore, the property in the hands of Jagir Singh, respondent No.1 was ancestral in character. Jagir Singh at the most was Karta of the suit

property. The suit was contested by the respondents and the trial court after holding trial, dismissed the suit with costs vide judgment and decree dated 15.12.2015.

Being aggrieved, the appellant approached the first appellate court but remained unsuccessful as too was dismissed.

Learned counsel for the appellant contends that both the courts below failed to appreciate the fact that the contesting respondent had also admitted ancestral character of the property in which the appellant has also some share being a coparcener. The entire case of respondents was based on the registered 'Will', but the same never saw light of the day.

Having given thoughtful consideration to the submissions made by learned counsel for the appellant, this Court finds the instant Regular Second Appeal completely devoid of any merit for the reasons to follows.

No question of law much less substantial has been raised in this appeal. Therefore, same is held not maintainable.

It is needless to mention here that burden to prove a issue is always upon the plaintiff. However, onus keeps on shifting. The contesting respondent came up with a plea that the suit property was his self acquired property by virtue of registered Will executed by Sucha Singh in his favour. Therefore, the onus had shifted upon the appellant to negate the same by leading evidence to the effect that the same was surrounded with suspicious circumstances. However, the appellant did

not make any such effort to rebut the claim of the respondent. He did not adopt such exercise, nor could dislodge the claim of the contesting respondents.

Both the courts have rightly held that since respondent No.2 Jagir Singh had received the suit property on the basis of aforesaid Will, therefore, the same was his self acquired property.

I have gone through the judgments of both the courts below and find the same well reasoned being based on appreciation of evidence. Therefore no interference is warranted.

Dismissed.

[RAMENDRA JAIN]
JUDGE

24.07.2019
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No