

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

RSA No.5110 of 2018(O&M)
Date of decision: 18.10.2019

Nar Devi

... Appellant

Versus

Rameshwar Dass alias Jodha Mal (deceased) through LR's and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Satnam Singh Sishodia, Advocate, for
 Mr. Ravinder Malik (Ravi), Advocate, for the appellant.

ARUN PALLI, J. (Oral)

Suit filed by the plaintiff-appellant was dismissed by the trial Court vide judgment and decree dated 03.10.2012. And as even the appeal preferred against the said decree failed and was dismissed by the appellate Court on 07.01.2017, 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.

Plaintiff prayed for a decree for joint possession on the basis of inheritance of Arjan Singh son of Nathu Ram, who happened to be her father, and also for a declaration that decree dated 20.08.1981, rendered in Civil Suit No.540/1981 (*Chiranjil Lal & Ors. Vs. Arjan Singh*), allegedly suffered by her father was illegal, null and void.

In brief, the case set out by her was that Arjan Singh was owner of a land measuring 65 kanals 17 marlas fully depicted in the cause title of

the plaintiff. During his life time, Arjan Singh used to manage the land himself but post his death as the plaintiff was not in a position to cultivate the land on her own, for, she was settled in her matrimonial home in a different village, the suit land was given to Chiranji Lal and sons of Phool Singh for cultivation and to manage the same on her behalf. Chiranji Lal and his sons as also the sons of Phool Singh were regularly paying share of produce to the plaintiff. However, after Chiranji Lal passed away in November, 2006, the defendants stopped paying any *batai/chakota/ share* of the produce to the plaintiff. Whereafter, son of the plaintiff made inquiries from the revenue officials and learnt that the suit land was mutated in the name of Chiranji Lal and Phool Singh on the basis of the alleged decree dated 20.08.1981. For Arjan Singh never suffered a decree, thus, the suit.

In the written statement filed by the defendants, it was pleaded that Arjan Singh in a family settlement had transferred the suit land in favour of his nephews, for, he himself had no male child, pursuant to decree dated 20.08.1981. In fact, he used to reside with the defendants and earlier with their predecessors. Arjan Singh remained alive for a period of 4 years post passing of decree dated 20.08.1981, but never questioned its validity during his lifetime. Therefore, the suit was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that it was not disputed that Arjan Singh was owner of the suit land. Plaintiff, who happened to be his daughter, was seeking inheritance of his estate by natural succession. However, by virtue of decree dated 20.08.1981 suffered by Arjan Singh in favour of Chiranji Lal and Phool Singh, they had acquired ownership qua the suit land. Not just that, pursuant to decree dated 20.08.1981, the suit land

was even mutated in the name of predecessors-in-interest of the defendants. It is not disputed either that Arjan Singh died in the year 1985 i.e. after four years of execution of the decree dated 20.08.1981, but he never chose to question its execution and validity during his lifetime. Significantly, the plaintiff filed the present suit on 22.05.2007, i.e., after 22 years of death of late Arjan Singh and all this while, she did not claim inheritance to his estate. Nothing was brought on record either to show if the decree dated 20.08.1981 obtained by Chiranji Lal and Phool Singh was a result of fraud or impersonation. The plea that post death of Arjan Singh plaintiff had entrusted the suit land to the defendants for management and cultivation and they had regularly paying *batai* to the plaintiff, also remained unproved for want of evidence. On the contrary, evidence on record revealed that Arjan Singh was living with defendants and before that with their predecessors, namely, Chiranji Lal and Phool Singh. Copies of Voter Card entries Ex.D7 to Ex.D10 would show that Arjan Singh was residing in the same house i.e. H.No.432 of Village Guglon, with the defendants and their predecessors. Nothing was brought on record either to show if Arjan Singh was in self cultivation and possession of the suit land before his death and/or was residing separately from the defendants. Thus, the only and the inevitable conclusion that could be reached: the suit filed by the plaintiff was liable to be dismissed.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusions 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

18.10.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO