

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 3404 of 2018(O&M)

Date of Decision: 14.1.2019

Manita and another

---Appellants

versus

Narender Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Neeraj Yadav, Advocate
for the appellants**

Rekha Mittal, J.

CM No. 9034-C of 2018

Allowed as prayed for. Delay of 03 days in filing the appeal
stands condoned.

Disposed of accordingly.

RSA- 3404 of 2018

Manita and another, daughters of Raj Kumar filed a suit for declaration that Will No. 247 dated 27.3.2008 and mutation No. 1051 dated 13.11.2008 are illegal and not binding upon rights of the appellants-plaintiffs and they are entitle to 1/4th share in land, detailed in para 1 of the judgment of trial court. They further sought declaration that sale deeds No. 2138 and 2139 and mutations No. 1185 and 1186 are also illegal and not binding on their rights. They prayed for permanent injunction that defendants be restrained from alienating suit land and defendant No. 6 be

restrained from interfering and dispossessing the plaintiffs from suit land.

The appellants-plaintiffs staked their claim to suit land on the premise that the same is ancestral coparcenary property and they have pre-existing right by birth in the same. Their grand father namely Sardar Singh was of unsound mind and never intended to execute Will in favour of the defendants. Defendants No. 1 to 5 with a mala fide intention to deprive the plaintiffs and proforma defendants prepared Will No. 247 dated 27.3.2008 in collusion with witnesses by playing fraud and misrepresentation.

Both the courts have consistently held that the appellants-plaintiffs have failed to substantiate their plea that suit land was ancestral coparcenary property in the hands of Sh. Sardar Singh or they acquired right therein by way of birth, as alleged.

Counsel for the appellants-plaintiffs would contend that an application has been filed to place on record copy of jamabandi for the year 1893 that land comprising khasra numbers, detailed in column No. 7 of the jamabandi was owned by Gopal and Bimal in equal share. However, counsel has failed to advance any arguments much less meaningful in order to show that there are sufficient documents on record in order to connect the land of jamabandi with the suit land or land comprising khasra numbers, detailed in column No. 7 of the jamabandi Annexure A-1 was inherited by successors of Gopal and Bimal on the basis of natural succession. In this view of the matter, the appellants cannot derive any advantage to their contention even if they are permitted to produce on record jamabandi for the year 1893. Further, counsel has failed to point out that consistent findings recorded by the Courts negating plea of the appellants suffer from illegality much less perversity, warranting intervention.

For the foregoing reasons, the appeal fails and is accordingly
dismissed in limine with no order as to costs.

(Rekha Mittal)
Judge

14.1.2019
PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No