

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

RSA No.422-2013(O&M)

Date of Order:19.02.2020.

Dharampal

..Appellant

Versus

Smt. Parmail and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kul Bhushan Sharma, Advocate, for the appellant.

Mr.Adish Gupta, Advocate,
for respondent nos.1 to 8.

ANIL KSHETARPAL, J(Oral)

Plaintiff-appellant through his legal representatives has filed the present regular second appeal against the judgment passed by learned first appellate court reversing the judgment and decree passed by the learned trial court.

This case poses a strange challenge. Plaintiff is Dharampal son of late Sh. Karan Singh son of Sh. Man Singh. Whereas defendant no.1 is also Dharampal son of Sh. Karam Singh son of Risal Singh. Thus, the plaintiff and defendant no.1 are having same name. Incidentally their father's names are also same, therefore, we have to make a distinction between the plaintiff and defendant no.1 by referring to the name of the grandfather. Both are co-owners in a joint land. Plaintiff has filed the present suit against defendants alleging that he is owner in the joint khata to the extent of 1/5th share. His precise case is that defendant no.1, who has same name, has sold 7 kanals 2 marlas of land out of joint land to defendant no.2 vide sale deed dated 16.07.1981. However when the mutation was

sanctioned, share of the plaintiff was reduced in place of defendant no.1. Defendant no.1 does not dispute the execution of the sale deed dated 16.07.1981. The error committed by the revenue authorities is apparent. Presumably the error has been committed on account of the fact that both the co-sharers have a common name.

Learned first appellate court has reversed the judgment passed by the trial court on the ground that the suit filed by the plaintiff is barred by time. An adverse entry in the revenue record does not normally give rise to a cause of action. The revenue entry is only for updating the revenue record. Revenue record is not a document of title but is only evidence of title. Once there is an apparent error in updation of the revenue record, the revenue authorities are bound to correct the same. First appellate court has erred in returning a finding that the suit filed by the plaintiff is barred by limitation. Apart from mere entry in the revenue record there is no challenge to the fact that the plaintiff is co-sharer in the joint land.

Keeping in view the aforesaid facts, the judgment passed by learned first appellate court is set aside. Plaintiff is held entitled to declaration that he is co-sharer in the joint land and has not executed sale deed dated 16.07.1981.

Disposed of accordingly.

February 19, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No