

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

RSA-7001-2016 (O&M)

Date of decision : 02.03.2020

Mehakdeep Singh

...Appellant

Versus

Captain Nirvail Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Malkeet Singh, Advocate for the appellant.

Mr. Ankit Kharbanda, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-appellant has filed the present Regular Second Appeal against the concurrent findings of fact arrived at by the Courts below while dismissing the suit filed by the plaintiff with following caption:-

“Suit for declaration to the effect that the plaintiff is owner of 1/9th share out of land measuring 41 kanals 4 marlas bearing khasra No.29//18/1(2-8), 23(8-0), 32//3(8-0), 8/1(3-7), 8/2(4-13), 13(8-0), 14/1(6-16) khata khatauni no. 197/456 and 1/18 share out of land measuring 133 kanals 7 marals bearing khasra no. 20//4/3(1-10), 9/2 (0-1), 11/2(1-0), 9//25/3(0-4), 20//5(3-6), 6(4-0), 7(7-16), 8/1

(3-11), 12(6-1), 20//3(8-0), 18(8-0), 19(8-0); 20(7-15), 21//10/2(2-0), 20//21(7-11), 21//1/2(4-0), 10/1(2-0), 20//6(4-0), 8//21/2(4-4), 22(7-18), 21//1/1(4-0), 21//13/1(3-0), 2(8-0), 9(1-0), 20//5(3-6), 21//9(6-10), 10/2(4-0), 12(8-0), 13/1(4-4), khewat No. 198 and khatauni no. 457 to 461, 461/1, 462, 463 as per jamabandi for the year 2003-04, situated at village Mode Tehsil and District Amritsar and for joint possession with consequential relief restraining the defendant no.1 from selling, alienating, transferring and mortgaging the suit land in any manner.”

Both the Courts have found that the plaintiff has failed to prove that the property is ancestral or coparcenary. The plaintiff only produced the photocopy of jamabandi for the year 2003-04 as Ex.D4. However, no other document was produced to prove that the property is either ancestral or coparcenary.

Learned counsel for the appellant has also very fairly admitted that apart from the aforesaid jamabandi, no other document has been produced to prove the case of the plaintiff.

However, he submits that the finding with regard to the absence of proof of marriage between Jujhar Singh and Rajbir Kaur, is erroneous.

This Court has considered the submissions. However, find that for the purpose of decision of the present appeal, such finding is not necessary. The plaintiff, as noted above, has filed the present suit claiming pre-existing rights to the extent of 1/9th share on the ground that the property is ancestral as well as coparcenary, which she failed to

prove.

Keeping in view the aforesaid facts, there is no ground to interfere with the concurrent findings of fact arrived at by the Courts below.

Accordingly, the present Regular Second Appeal is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

02.03.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No