

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

RSA No. 4987 of 2018 (O&M)

Date of decision: 25.02.2020.

Yadwinder Singh

..... Appellant.

Versus

Chhota Singh (since deceased) through LR's and others Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. S.S. Salar, Advocate, for the appellant.

ANUPINDER SINGH GREWAL, J. (ORAL)

CM No. 13614-C of 2018

This application is for condonation of delay of 123 days in re-filing the appeal.

Heard. For the reasons stated in the application, the same is allowed and the delay of 123 days in re-filing the appeal is condoned.

RSA No. 4987 of 2018 (O&M)

The appellant/plaintiff has challenged the judgments and decrees of the Courts below whereby his suit for declaration that he is owner of the suit property has been dismissed.

Learned counsel for the appellant/plaintiff contends that the suit property was ancestral and, therefore, the collusive decree between Chanan Singh and his five sons excluding Ujagar Singh, who is the father of the appellant/plaintiff, was *null and void* and could not extinguish the rights of the appellant/plaintiff, which had accrued to him by birth in the coparcenary property.

Heard.

The appellant/plaintiff had filed a suit for declaration to the effect that he is owner to the extent of 1/6th share out of the land measuring 110 kanals 4 marlas situated at village Khanal Kalan, Tehsil Sunam, and the respondents/defendants have no concern with the said share of the appellant/plaintiff and that the judgment and decree dated 11.07.1972 passed in civil suit No.186 of 20.06.1972 titled 'Jangir Singh etc. versus Chanan Singh' are illegal, *null and void*.

The appellant/plaintiff is the son of Ujagar Singh and the grandson of Chanan Singh. Chanan Singh had six sons, including Ujagar Singh, the father of the appellant/plaintiff. On 11.07.1972, the suit preferred by the five sons of Chanan Singh, excluding Ujagar Singh, with regard to the suit land was decreed with the consent of Chanan Singh. The father of the appellant/plaintiff, namely, Ujagar Singh did not challenge the decree during his lifetime. The appellant/plaintiff had filed the instant suit in the year 2010 on the ground that the suit property was ancestral and, therefore, transfer in favour of the five sons of Chanan Singh by excluding his father, namely, Ujagar Singh is illegal, *null and void*. However, it is apparent from the material on record that the appellant/plaintiff could not lead any evidence with regard to the suit property being ancestral or coparcenary property. The only document, which had been produced on record by the appellant/plaintiff, is jamabandi for the year 1962-63 as Ex. P1 to Ex. P3 wherein Chanan Singh alone had been shown as owner of the suit property. As to how the suit property was acquired by Chanan Singh or it had devolved on him through his forefathers had not been stated in the plaint nor any evidence had been led

by the appellant/plaintiff in this regard. The appellant/plaintiff had set up his claim on the ground that the suit property was ancestral and, therefore, the onus to prove the same was on him, which he had woefully failed to discharge. Consequently, I do not find any illegality in the judgments of the Courts below dismissing the suit of the appellant/plaintiff.

The appeal stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

25.02.2020
Ramesh

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