

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

RSA No.5190 of 2018(O&M)

Date of decision: 24.2.2020

Ramkala

.....Appellant

VERSUS

Ishwar

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Dalel Singh Nain, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against concurrent findings recorded by the Courts whereby suit for possession qua 2½ marlas out of land measuring 5 marlas comprised in khasra No.1686 situated within the revenue estate of village Pai, Tehsil Pundri, District Kaithal was dismissed by the trial Court vide judgment and decree dated 19.07.2016 that came to be affirmed in appeal by the Additional District Judge, Kaithal.

The appellant/plaintiff claimed ownership of 5 marlas of land consisting of khasra No.1686 on the basis of release deed No.645/1 dated 23.05.2006 and mutation No.11877 sanctioned on the basis thereof. It is plea of the appellant that Ramdhari, his real brother was previously owner of the aforesaid land who transferred the suit property in favour of the appellant on the basis of aforesaid release deed, therefore, he is entitle to recover possession of 2½ marlas which has been illegally possessed by the respondent/defendant, his nephew.

Counsel for the appellant would argue that as per revenue record, Sh. Ramdhari son of Rulia Ram was recorded to be owner of aforesaid land measuring 5 marla of khasra No.1686. Since Ramdhari conferred ownership right upon the appellant/plaintiff in view of release deed No.645/1 dated 23.05.2006, plea of the appellant/plaintiff to seek recovery of possession of suit land, a part of aforesaid khasra number has wrongly been dismissed by the Courts.

I have heard counsel for the appellant, perused the paper-book particularly the judgments impugned.

The Appellate Court in para 19 of its judgment has adverted to testimony of the plaintiff/appellant wherein he admitted that 28 kanals of land and plot comprising khasra No.1686 were purchased by the family of Sh. Rulia Ram who had four sons Ramkala, Sarupa, Ramdhari and Ram Kishan in the name of Ramdhari as at the time of purchase, there was joint family. The appellant further admitted that land measuring 28 kanals was partitioned amongst the four brothers in equal shares i.e. 1/4 share each.

Counsel for the appellant has not disputed correctness of aforesaid i.e. facts recorded in testimony of appellant/plaintiff. Keeping in view the above, it can safely be held that the disputed property was also co-owned by all the members of joint family, therefore, the appellant cannot assert his exclusive ownership on the basis of release deed executed by Sh. Ramdhari. I do not find an error much less perversity in consistent findings recorded by the Courts that would call for intervention.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine. As the appeal has been decided on

merits, application for condonation of delay of 145 days in re-filing the appeal is of academic relevance.

FEBRUARY 24, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no