

RSA- 6439 of 2018 (O&M)
Date of Decision: 22.1.2020

Jaswinder Singh

---Appellant

versus

Manjit Kaur and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Malkeet Singh, Advocate
for the appellant

Rekha Mittal, J.

Challenge in the present appeal has been directed against concurrent findings recorded by the courts whereby suit for declaration filed by Manjit Kaur and Jasbir Kaur, daughters of Joginder Singh and sisters of appellant claiming 1/3rd share each in the suit property left behind by their brother Kuldip Singh by challenging mutation No. 3156 and consequential relief of permanent injunction and in the alternative suit for joint possession, was decreed by the trial court vide judgment and decree dated 17.12.2015 that came to be affirmed in appeal by the Additional District Judge, Jalandhar.

The sole submission made by counsel is that Kuldip Singh, brother of the parties died on 27.8.1994 and mutation on the basis of Will Ex. D4/C propounded by the appellant was sanctioned in presence of respondents-plaintiffs who also filed affidavits raising no objection with regard to sanction of mutation on the basis of Will but the

suit for declaration was instituted on 30.11.2010, therefore, the suit is barred by limitation.

Counsel has failed to point out any materials brought on record to prove presence of respondents at the time of sanction of mutation. The courts have recorded that even copy of mutation No. 3156 has not been produced on record. He has further conceded that alleged affidavits given by respondents-plaintiffs at the time of sanction of mutation have also not been produced much less proved, in accordance with law. In the given circumstances, it is difficult to accept contention of the appellant that cause of action to file suit for declaration claiming inheritance to their brother accrued to plaintiffs with effect from the date of sanction of mutation or even prior thereto when they caused appearance in mutation proceedings.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

22.1.2020

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No