

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

Sr. No.124

**RSA-880-2021 (O&M)
Date of decision : 05.10.2021**

Raj Kumar

..... Appellant

VERSUS

Khushi Ram through LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Nonish Kumar, Advocate, for the appellant.

SUDHIR MITTAL, J. (Oral)

The plaintiff is in second appeal. He had filed a suit for declaration and permanent injunction regarding agricultural land measuring 56 kanals, 17 marlas and residential property in the abadi of the village measuring 1190 sq. yards. He claimed 1/6th share in entire suit property being the son of Khushi Ram, who had further inherited the same from his father, namely, Ram Sahai. The suit of the plaintiff was decreed only to the extent of 13 marlas share in the agricultural land and some share in the residential property. Appeal has partially been allowed. The plaintiff has been held entitled to 1/6th share in agricultural land measuring 21 kanals 09 marlas and residential property measuring 685 sq. yards.

Certain essential facts are that an alleged oral family settlement of the year 2008 was arrived at between the parties. According to the said settlement, the children of Khushi Ram being six in number came in possession of 1/6th share each. In the year 2014, defendant Nos.2 to 4 filed a suit against their father, i.e. defendant No.1 in respect of the residential property only. The plaintiff was not made a party thereto and thus, he filed an application for impleadment. The moment, the same was done, the suit

was withdrawn. Thereafter, the father i.e. defendant No.1 executed four relinquishment deeds dated 22.12.2014 and 31.12.2014 in favour of defendant Nos.2 to 4. By virtue thereof, he relinquished his title in respect of 34 kanals and 19 marlas of agricultural land and 505 sq. yards of the residential property. These relinquishment deeds have been challenged in the present suit on the ground that no relinquishment deed could have been executed by the father, because the property was ancestral and coparcenary in nature. The Courts below have rejected the contention of the plaintiff that the property in dispute was coparcenary in nature.

Learned counsel for the appellant has submitted that Khushi Ram's father was Ram Sahai and the suit property was inherited by Khushi Ram from Ram Sahai. Ram Sahai had further inherited the property from his father. The fact that Ram Sahai inherited the property from his father has not been disputed and thus, the Courts below could not have rejected the claim on the ground that Khushi Ram did not inherit the property directly from his father. Khushi Ram had sisters also, who succeeded to the property of Ram Sahai in equal shares and all of them executed relinquishment deeds in favour of Khushi Ram. Thus, Khushi Ram was full owner of the property.

The argument cannot be accepted. For a property to be declared coparcenary in nature, it must devolve upon male successors through four generations. Even one interruption breaks the chain. In this case, admittedly the property of Ram Sahai was inherited by Khushi Ram and his sisters. Subsequent relinquishment deeds by the sisters in favour of Khushi Ram would not make any difference. The suit property did not

were correct in recording a finding that the suit property was not coparcenary in nature. Under the circumstances, relinquishment deeds in respect of agricultural as well as residential property were correctly upheld. The error committed by the trial Court has been rectified by the appellate Court as the plaintiff has been given 1/6th share in remaining agricultural and residential property.

No other ground has been argued.

In view of above, the appeal has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

05.10.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No