

111

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA-3803-2003 (O&M)
Date of Decision:03.08.2022

Jagdev Kaur and others

.. Appellants

Vs.

Kulwant Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Harsharan Preet Kaur, Advocate for the appellants.

Mr. Kulwant Singh Boparai, Advocate for the respondents.

...

Manoj Bajaj, J. (Oral)

CM-5155-C-2022

This application has been filed under Order XXII Rule 3 CPC for impleading legal heirs of appellant Nos.2, 3 and 4, namely, Rajinder Kaur, Satwant Kaur and Surinder Kaur daughters of Dalip Singh.

Learned counsel for the appellants submits that the above appeal was filed by plaintiff's mother, namely, Jagdev Kaur and his three sisters, and during the pendency of the appeal, appellant No.1 (mother) died on 10.02.2004 and appellant No.2-Rajinder Kaur had moved an application for impleading LRs. of Jagdev Kaur, who were already on record being her daughters and son, and prayed for deleting name of Jagdev Kaur. He submits that now, his sisters (appellant Nos.2 to 4) have also expired and refers to the death certificates (Annexures A-1 to A-3).

According to him, Rajinder Kaur and Surinder Kaur were unmarried, whereas the appellant No.3-Satwant Kaur has left behind two sons, namely, Harmandeep Singh and Harneet Singh and prayed for

impleading them as her legal heirs.

Notice in the application.

Mr. Kulwant Singh Boparai, Advocate accepts notice on behalf of respondent/plaintiff and does not oppose the prayer.

For the reasons mentioned in the application, the same is allowed. Legal heirs of appellant No.3 as mentioned in para No.5 thereof are impleaded as party, subject to just exceptions.

Amended memo of parties, annexed with the application, is taken on record.

CM-4869-C-2022

Learned counsel for the applicant/plaintiff has stated that during the pendency of the appeal, the dispute between the parties, who are closely related is settled and in this regard, he has invited the attention of the Court to the written compromise dated 29.05.2022, and as per this compromise, the appellants have given up their claim in the suit property and have also expressed no objection, if the suit of the plaintiff is decreed and the entire suit property is declared to be in his ownership. He prays that the appeal be taken up on board today for hearing and disposal on the basis of compromise.

Notice of this application.

Ms. Harsharan Preet Kaur, Advocate accepts notice on behalf of non-applicants/appellants and does not oppose the prayer.

Application is allowed. Compromise dated 29.05.2022 is taken on record, and on the oral request of learned counsel for the parties, the appeal is taken up on board.

RSA-3803-2003 (O&M)

The appellants/defendants are aggrieved against the judgment and decree dated 03.04.2003 passed by Addl. District Judge, Ludhiana in Civil Appeal No.11 of 04.03.1999, whereby the judgment and decree dated 23.12.1998 passed by Civil Judge (Jr. Divn.), Ludhiana in Civil Suit No.610 of 20.11.1989 partly decreeing the suit of Kulwant Singh, was reversed and his suit was decreed.

Learned counsel for the plaintiff/respondents states that the plaintiff had filed a suit against his parents, namely, Dalip Singh and Jagdev Kaur for declaration that he is owner in possession of the ancestral and coparcenary landed property below:

“a) 1/4th share of land measuring 104K 15M comprised in khewat No.35, 298, khatauni No.64, 441, 442, 443, 444, 445, khasra Nos.20//15/2, 16/1, 16/2, 21//20/1, 20/2, 23//4,5,44//13/2, 18/2, 19/1, 98, 271, 270, 158, 20//15/1, 5/1,6,7/2, 8//24, 25, 22//1, 23//6/2, as per the jamabandi for the year 1984-85 situated at village Baraich, H.B. No.139, Tehsil and District Ludhiana.

b) 1/2 share of land measuring 18K-15M comprised in khewat No.37, 218 khatauni No.68, 310, khasra No.19//5, 6/2, 20//1/1, 38//7/2, 8/1, as per the jamabandi for the year 1984-85 situated at village Baraich, HB No.138, Tehsil & District Ludhiana.

c) 1/2 share of house property i.e. Prem Sagar Building Block A-10, Lal Bahadur Shastri Marg, Kurla, Bombay-70

d) 1/2 share of 3 plots i.e. i) Factory Plot No.31, size 30' x 75' ,ii) shopping Booth No.104, size 16'6" x 25'3", iii) Shopping Booth No.56, size 8'3"x 25'3" situated at Mullanpur, Tehsil and District Ludhiana on the basis of family settlement entered into between the parties; AND for permanent injunction restraining the defendants from alienating and dispossessing the plaintiff forcibly and illegally from the properties fully detailed at (a) to (d) above.”

He submits that in the suit, his father Dalip Singh was represented by his legal heirs, and in the application filed by appellant No.2 Rajinder Kaur after death of appellant No.1-Jagdev Kaur, during the pendency of the suit, she had relied upon a Will dated 07.09.1995 and the

same was denied by plaintiff Kulwant Singh, but after the death of Rajinder Kaur, unmarried sister, the property would otherwise devolve upon the present parties to the suit.

Ms. Harsharan Preet Kaur, learned counsel for the appellants states that indeed the compromise has been arrived at between the parties and she has no objection, if the impugned judgment and decree in favour of respondent is maintained.

Considering the above, the regular second appeal is disposed of in terms of compromise dated 29.05.2022 and it is ordered that the rights of the parties in respect of the suit property shall be governed as per the terms of the compromise.

Let the compromise be made part of the decree. No costs.

03.08.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No