

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RSA No.386 of 2022(O&M)

Date of decision:17.02.2022

Jai Parkash

...Appellant

Versus

Parkash Chand (since deceased) through his LRs
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Satbir Rathore, Advocate, for the appellant.

ANIL KSHETARPAL, J (Oral)

The plaintiff assails the correctness of the concurrent judgments and decrees passed by both the Courts below while dismissing his suit for grant of decree of declaration with a consequential relief of permanent injunction.

In substance, the plaintiff claims that late Smt. Gindori, who died on 06.05.1991, was not the daughter of late Sh. Govinda, who died on 20.06.1983. The suit was filed on 22.09.2008.

Both the Courts, on appreciation of the evidence, have recorded the findings of fact to the effect that the plaintiff has failed to produce any documentary evidence to prove that late Smt. Gindori was daughter of Sh. Phusa and not of late Sh. Govinda. It has also come in evidence that widow of Sh. Phusa, namely, Smt. Kanhi married with Sh. Govinda after the death of Sh. Phusa.

On the death of Govinda, late Smt. Gindori inherited a share in his property, being a Class-I heir of Govinda, along with other heirs.

Thereafter, no one objected to the aforesaid mutation. After a period of 8 years, late Smt. Gindori died. The property was mutated in favour of the legal heirs of late Smt. Gindori, who successfully sold the property in favour of respondent no.5 to 7.

On appreciation of the evidence, both the Courts have recorded the concurrent findings that the plaintiff has failed to lead any evidence to prove that late Smt. Gindori was in fact, born before the death of late Sh. Phusa.

The learned counsel representing the appellant contends that Sh. Bishamber son of Balley has made a statement to the effect that her aunt late Smt. Gindori was the daughter of Sh. Phusa.

Both the courts have appreciated the aforesaid evidence and have found it insufficient to prove the case of the plaintiff.

In the regular second appeal, the High Court has limited jurisdiction to interfere in the findings of fact. The learned counsel representing the appellant, although, made sincere attempts, however, failed to put forth any convincing arguments to create a doubt about the correctness of the findings of fact.

In view thereof, the regular second appeal is dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

February 17, 2022
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(ANIL KSHETARPAL)
JUDGE

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