

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.5778 of 2019 (O&M)

Reserved on : 23.08.2022

Date of Decision: 20.09.2022

Surjit Kaur and Another

....Appellants

VERSUS

Kewal Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Saurabh Kaushik, Advocate for the appellants.

ALKA SARIN, J.

The present appeal has been preferred by the defendant-appellants against the impugned judgments and decrees dated 03.08.2005 and 14.11.2019 passed by the Trial Court and the lower Appellate Court respectively.

The brief facts relevant to the present *lis* are plaintiff-respondents nos.1 to 3 filed a suit for declaration to the effect that one Gurdit Singh had five sons, namely, Gajjan Singh, Iqbal Singh, Gurdial Singh, Hardial Singh and Gurcharan Singh. Gurcharan Singh was adopted by his maternal uncle Bhola Singh vide adoption deed dated 14.10.1957. Gurdial Singh alias Ujjagar Singh son of Gurdit Singh was unmarried and issueless and was the real brother of grandfather of plaintiff-respondent nos.1 to 3. It was further averred that Gurdial Singh was looked after by the plaintiffs during his lifetime and they were managing his property also. It was further the case set up in the plaint that Gurdial Singh executed a registered Will dated 18.09.1996 bequeathing his entire property in favour of the plaintiff-respondent nos.1 to 3 and that plaintiff-respondent nos.1 to 3 were in possession of the property in dispute after the death of Gurdial Singh alias

Ujjagar Singh who died on 28.10.1997 at Bargari and hence the declaration was sought to the effect that plaintiff-respondent nos.1 to 3 were owners in possession of 1/4th share of Gurdial Singh out of the land measuring 179 kanals and 5 marlas.

On notice, defendant nos.1 and 2 (appellants herein) filed their written statement stating therein that the Will was forged and fabricated. It was further averred that the pedigree table produced by the plaintiff-respondent nos.1 to 3 was wrong and that Gurcharan Singh was the son of Gurdit Singh and husband of defendant-appellant no.1 and father of defendant-appellant no.2. It was further the case that Gurcharan Singh was also known as Gurdial Singh. It was denied that Gurdial Singh executed any Will as set up in the plaint.

Defendant no.3 filed a separate written statement. However, the same was discarded as not having been filed in the proper form. Replications were filed reiterating the stand taken in the plaint.

On the basis of the pleadings of the parties the followings issues were framed :

1. Whether the plaintiffs are owners in possession of suit land on the basis of a registered Will dated 18.09.1996 executed by Gurdial Singh alias Ujjagar Singh in favour of the plaintiffs ? OPP
2. Whether Gurcharan Singh husband and father of defendants No.1 and 2, respectively was adopted by Bhola Singh s/o Daya Singh through registered adoption deed dated 14.10.1957 ? OPP

3. Whether the Will is a forged and fabricated document ? OPD 1&2
4. Whether Gurdial Singh was also known as Gurcharan Singh and plaintiffs have forged death certificate of Gurdial Singh alias Ujjagar Singh ? OPD 1&2
5. Whether defendant no.3 is owner of the entire suit land ? OPD 3
6. Relief.

The Trial Court, based on the pleadings of the parties and the evidence on the record, decreed the suit of the plaintiff-respondent nos.1 to 3 holding the registered Will dated 18.09.1996 to be valid. Aggrieved by the said judgment and decree, appeals were preferred by the present defendant-appellants and one by Iqbal Singh (defendant no.3). Both the appeals were taken up together and vide a common judgment dated 14.11.2019 both the appeals were dismissed. Hence, the present regular second appeal.

It is argued by learned counsel for the defendant-appellants that Gurdial Singh did not have any alias and was never known as Gurdial Singh alias Ujjagar Singh. He argued that it had been fully proved that Gurdial Singh was also known as Gurcharan Singh and that defendant-appellant No.1 is his widow and defendant-appellant No.2 is the son of Gurdial Singh alias Gurcharan Singh and that the pedigree table Ex.P7 placed on record by the plaintiff-respondent nos.1 to 3 is a fabricated document showing Gurdial Singh alias Ujjagar Singh. Learned counsel for the defendant-appellants has further submitted that the Courts below have erred in decreeing the suit and

holding that Gurdial Singh alias Ujjagar Singh had executed a valid Will in favour of the plaintiff-respondent nos.1 to 3.

I have heard learned counsel for the defendant-appellants.

The contention of the defendant-appellants is that Gurdial Singh was also known as Gurcharan Singh and that the defendant-appellants are the heirs of Gurdial Singh. It is submitted that a forged death certificate of Gurdial Singh alias Ujjagar Singh has been produced on the record while the documents produced by the defendant-appellants i.e. consolidation report as Ex.D1, copy of ration card Ex.D2 and voter list/card of Jagjit Singh as Ex.D3 prove that the deceased was Gurdial Singh alias Gurcharan Singh. However, none of these documents were proved as per provisions of the Indian Evidence Act, 1872. Ex.D7, which is a copy of the pedigree table, was also not in the proper form and hence was not considered by the Courts below. It was further held by the Courts below that a perusal of Ex.D7, which was the pedigree table produced by the defendant-appellants, also did not mention the name Gurdial Singh alias Gurcharan Singh. On the other hand, the pedigree table as produced by the plaintiff-respondent nos.1 to 3 clearly mentioned Gurdial Singh alias Ujjagar Singh. Both the Courts below have concurrently held that no evidence had been led on the record to prove that Gurdial Singh was also called as Gurdial Singh alias Gurcharan Singh. On the other hand sufficient evidence was produced by the plaintiff-respondent nos.1 to 3 to show that Gurdial Singh was also known as Gurdial Singh alias Ujjagar Singh. The death certificate purported to be of Gurdial Singh produced on the record by the defendant-appellants as Ex.D13 mentions Gurdial Singh as a resident of village Uggar Wala, Tehsil Ajnala, District Amritsar and there was no satisfactory explanation as to why

Gurdial Singh, who was a resident of Bargari, Tehsil and District Faridkot, was shown as permanent resident of village Uggar Wala, Tehsil Ajnala, District Amritsar in the said death certificate. Learned counsel for the defendant-appellants, even before this Court, has not been able to refer to any document to show that Gurdial Singh was also known as Gurdial Singh alias Gurcharan Singh.

In view of the above, I do not find any illegality or infirmity in the judgments and decrees passed by both the Courts below. No question of law, much less any substantial question of law, arises for determination in the present case. The present regular second appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

20.09.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO