

**125 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-13-2020 (O&M)

Date of decision: 11.11.2022

Lala Ram

....Petitioner

Versus

General Public and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jaivir Yadav, Sr. Advocate with
Mr. Harshvardhan Ranga, Advocate for the petitioner

Mr.Mukesh Yadav, Advocate for respondent no.2 and 3

ANIL KSHETARPAL, J (Oral)

The trial court while allowing the application of respondent no.2 and 3 under Order 1 Rule 10 of the Code of Civil Procedure, 1908 has permitted them to be impleaded as party. The plaintiff has filed a suit claiming decree of declaration that their predecessor Sh.Chajiya died a civil death as his whereabouts are not known since 1973. In the plaint, the following relief has been sought:-

*“Suit for declaration to the effect that
land comprised in Khewat No. 555 Khatoni No.697 to
701, Killa No.647(0-2) Gair Mumkin Pit,24//18/1(4-
0), 23(8-0), 31//3(8-0), 8(8-0), 13/1(4-2), 38//4/2/2(4-
2), 39//6/3(1-19), 21/2(3-0), 46//1/1(3-11), 47//5(8-0),
40//9/3(1-11), 38//5/1(3-16), 22//4(8-0), 28//12(8-0),
13(8-0), 18/2(4-0), 19(8-0), 47//4/3(7-0), total kitta
19, measuring 101 Kanal 19 Marla situated in Mauja*

Balaha Kalan, as per Jamabandi for the year 2013-2014 in which Chhajia s/o Salag Ram S/o Fatta was owner to the extent of ½ share and out of the said land he had sold 43 Kanal 0 Marla and 3 Kanal 16 Marla total measuring 46 Kanal 16 Marla and now in the aforesaid Khewat after measurement/calculation Chhajia is coming recorded as owner-in-possession of 3 Kanal 15 Marla and similarly in Khewat No. 556, Khatoni No. 702 Mustatil/Killa No.38//17/1(1-15), 24/3(2-8), 25(9-0) and Khatoni No. 703 Mustatil/Killa No. 138//24(7-11) total Kitta 4 total are measuring 20 Kanal 14 Marla situated in Mauja Balaha Kalan, as per Jamabandi for the year 2012-2014, Chhajia is recorded as having 1/4th share, out of which Chhajia sold 7 Kanal 11 Marla, whereas he did not have this much land to his share nor he had right to sell the same, and in Khewat No. 558 and Khatoni No. 714 Mustatil/Killa No. 16//16(8-0), 23/2(7-8), 24(8-0), 25(8-0), kitta 4 measuring 31 Kanal 8 Marla and Khewat No. 558, Khatoni No. 715 Mustatil/Killa No. 28//5(4-12), 6(8-0), 7(9-0), 8(8-7), 14/1(5-7), 15/1(5-7), kitta 6, measuring 40 Kanal 13 Marla, Khewat No. 558 & Khatoni No. 714 & 715 total kitta 10

measuring 72 Kanal 10 Marla situated in village Balaha Kalan as per Jamabandi 2013-2014 in which Chhajia is coming recorded in the revenue record as owner-in-possession to the extent of 1/6th share, and since 1973 Chhajia being missing he has no right or concern with this land and he is presumed to have civil death and Chhajia be declared dead and plaintiff alone is having right of inheritance as owner-in-possession and is entitled to get declared and recorded as owner-in-possession in the revenue record and plaintiff is also entitled to get his name recorded in place of Chhajia and Mutation to the effect of his inheritance is also required to be entered in his name, suit of the plaintiff for declaration be decreed against the General Public.”

Respondent no.2-3 while claiming ownership of the property on the basis of various sale deeds executed by Sh.Chhajia in the year 1971-72 filed the application for impleadment. The court has allowed the same. Learned senior counsel representing the petitioner while drawing the attention of the Court to the reply filed by the plaintiff claims that the plaintiff has not challenged any sale deed and he is not claiming ownership on the basis of mortgage of the property. Learned senior counsel further submits that neither any relief against the rights of respondent no.2 and 3, arising from the sale deeds and mortgage, shall

be claimed nor their rights, title or interest shall be adversely affected.

Keeping in view the aforesaid facts, the order under challenge is modified. The application filed by respondent no.2 and 3 shall stand dismissed. However, the plaintiff shall remain bound by the statement suffered by learned senior counsel representing him.

Disposed of.

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

11.11.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE