

RSA-1665-2019 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA-1665-2019 (O&M)

Date of decision: May 02, 2023

Inderjit Singh

....Appellant

versus

Mohinder Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. G.S. Nagra, Advocate,
Mr. K.S. Rawat, Advocate for appellant.

ARUN MONGA, J. (ORAL)

For convenience, parties herein are addressed as per the recitals before learned trial Court.

2. Having suffered concurrent adverse findings by the two Courts below, appellant/defendant No.1 is in second appeal before this Court assailing learned trial Court judgment and decree dated 17.04.2018, as upheld by learned First Appellate Court vide its judgment and decree dated 16.10.2018, whereby preliminary decree was passed in suit filed by plaintiffs/respondents No.1 to 5 and plaintiffs were held entitled for separate possession of their shares by partition by metes and bounds of a residential house measuring 20 Marlas fully shown in red colour in the site plan attached situated in village Kukar Pind, Tehsil and District Jalandhar.

3. At the outset, learned counsel for appellant states that respective shares *qua* suit property have also been determined in the partition proceedings and further, the same have been upheld by this Court in RSA-2100-2019 preferred by defendants, vide order dated 14.09.2009.

4. Not only there are concurrent adverse findings by two Courts below against appellant-defendant No.1 along with other defendants, but also as stated aforesaid, shares *qua* suit property were determined in the partition proceedings,

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which in turn have been upheld by this Court in RSA-2100-2009 *ibid*. For ready reference, relevant extract of the same reads as under:

“However, the learned trial Court dismissed the suit holding that the property in dispute is not proved to be ancestral property. The plaintiffs have produced excerpt Ex.P-1 prepared by the Revenue Authorities and in respect of inheritance from Arjan Singh. The learned trial Court found that said excerpt does not prove that the property in the hands of Didar Singh was ancestral property. However, in appeal the findings have been reversed. It has been found that Didar Singh inherited property from his father Udham Singh and Udham Singh inherited property from his father Arjan Singh. The excerpt was found to contain 12 entries and all the entries goes to show that the property in dispute was earlier held by Arjan Singh and after his death, it came to Udham Singh and then to Didar Singh. The entries at Nos.5, 6, 7, 8, 9 & 10 were considered and found that entry No.5 pertains to inheritance of Udham Singh in favour of Didar Singh and entry No.6 is of inheritance of Didar Singh and Dilbag Singh from their mother Ratti. Entry No.10 pertains to inheritance of Didar Singh from Udham Singh. It was found that the dispute in the present suit regarding estate of Didar Singh and not of Ratti. It was also found that no mutation or sale deed has been mentioned in excerpt, which may show that Didar Singh purchased any other property. Thus, it was found that the property in the hands of Didar Singh was not self-acquired property but was ancestral property, in which Gurcharan Singh has right by birth.

Learned counsel for the appellant has produced excerpt Ex.P1 for the perusal of this Court. With his assistance, I have gone through the entries recorded therein. The inferences drawn by the learned first Appellate Court on the reading of the excerpt are correct. It could not be pointed out that any entry has been misread. Learned counsel for the appellant could not refer to any revenue record in respect of purchase of land by Didar Singh or of land received by him in any other manner except by inheritance from Udham Singh.

Learned counsel for the appellant has sought to dispute the findings of fact recorded by the learned first Appellate Court by reappreciation of evidence. Findings of fact recorded by the learned first Appellate Court cannot be permitted to be disputed by reappreciation of evidence in second appeal.”

- 5. In the premise, no grounds for interference are made out.
- 6. Dismissed.
- 7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 02, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No