

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-1493-1990(O&M)

Date of decision:-11.4.2023

Tehal Singh

...Appellant

Versus

Hardev Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.R.K. Gupta, Advocate
for the appellant.

None for the respondent.

H.S. MADAAN, J.

1. Briefly stated, facts of the case are that one Bachna was owner of the landed property; he was not blessed with any child; he had suffered a consent decree in favour of his nephew Hardev Singh i.e. son of his real brother Madan Singh; that decree dated 3.8.1986 passed in Civil Suit No.176 of 12.3.1986 titled 'Hardev Singh Versus Bachna' by the Court of Sub Judge Ist Class, Nabha had been challenged by Tehal Singh, another son of Madan Singh by way of filing a civil suit against his real brother Hardev Singh.

2. That civil suit after contest was dismissed by Sub Judge Ist Class, Nabha vide judgment and decree dated 24.12.1988 wherein it was

observed that though Bachna had acquired property from his ancestors but since he did not have any son, grandson or great grandson in existence at that time, it had to be taken as his absolute property with which he could deal with in the manner, he liked and plaintiff did not constitute any coparcenary property with Bachna, therefore the decree suffered by Bachna in favour of Hardev Singh was found to be legal and valid.

3. Feeling aggrieved by the said judgment and decree, the plaintiff had filed an appeal in the Court of District Judge, Patiala, which was assigned to Additional District Judge, Patiala, who vide judgment and decree dated 14.12.1989 dismissed the same.

4. Still feeling dissatisfied, the plaintiff has knocked at the door of this Court by way of filing a regular second appeal praying that the same be accepted, the impugned judgments and decrees passed by the Courts below be set aside and his suit be decreed.

5. Notice of the appeal was issued to the respondent. However, he did not put in appearance.

6. I have heard learned counsel for the appellant besides going through the record.

7. Here both the Courts below considering the pleadings of the parties and analysing the evidence brought on file as well as settled legal position had come to the conclusion that Bachna was absolute owner of the property and he had a right to deal with it in any manner he felt like including suffering a consent decree in favour of his real nephew Hardev Singh. The decree so suffered by him in favour of Hardev Singh was found to be legal and valid. The version of the plaintiff that the property in

the hands of Bachna was joint Hindu ancestral coparcenary property in which Tehal Singh had acquired an interest was rejected.

8. The findings given by the Courts below are based upon proper appreciation and correct interpretation of law. Both the Courts had rejected the claim of the plaintiff. I do not see any reason to disagree with the Courts below and take a different view and further to interfere with the impugned judgments and decrees. Those judgments and decrees are upheld.

9. With regard to the judgment pressed into service by learned counsel for the appellant during the course of arguments i.e. **Bhoop Singh Versus Ram Singh Major and others (1995) 5 Supreme Court Cases 709** that the impugned decree required compulsory registration, the same does not find application due to different facts and circumstances of the case and the context in which such observations had been made.

10. No substantial question of law or fact arises in this appeal.

11. The appeal stands dismissed accordingly.

Since the main appeal stands dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

11.4.2023
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No