

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

214

RSA-3813-2011 (O&M)

Date of decision : 16.01.2023

Jangir Kaur

... Appellant

Versus

Darshan Singh and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Ms. Sonia G. Singh, Advocate for the appellant.

Mr. K.K. Garg, Advocate for the respondents.

Anupinder Singh Grewal, J. (Oral)

The appellant has challenged the judgment and decree dated 08.10.2010 passed by the trial Court whereby the suit for declaration filed by her has been dismissed and the judgment of the Appellate Court dated 12.05.2011 dismissing the appeal thereagainst.

Learned counsel for the appellant submits that the suit ought to have been decreed as the memorandum of partition was a fabricated document and not binding on the appellant as the thumb impressions were not of the appellant. She further submits that the memorandum of partition was for 114 kanals 19 marlas of land while the mutation had been sanctioned for 134 kanals 14 marlas and her share had been reduced. The appellant was the owner in possession of the land to the extent of 1/4th share and 1/12th share was inherited after the death of her husband.

Learned counsel for the respondents, however, submits that the appellant was a party to the settlement which carried her thumb impression. The mutation had been sanctioned on the basis of partition and therefore, it is too late for the appellant to contend that it was a fabricated document.

Heard.

The appellant had filed a suit for declaration to the effect that the memorandum of partition dated 31.05.2003 and the mutations sanctioned on the basis thereof bearing Nos.13500 and 13716 would have no bearing on her rights. It was also stated that the appellant is the owner of 729/2694 share out of the land measuring 134 kanals 14 marlas. The Courts have recorded findings of fact that the memorandum of partition (Ex.P1) bore the thumb impression of the appellant. In her cross-examination, she had stated that the parties are in cultivating possession of their respective share of land. PW-2 Pritam Singh, who is Numberdar, had also deposed that the parties had appeared and signed Ex.P1 in his presence and he had identified them before the Revenue Officer. The Revenue Officer had made an enquiry and only thereafter, the mutations had been sanctioned. The mutation (Ex.P5) had been signed in the presence of the parties and the appellant/plaintiff had thumb marked the same. She was in possession of the land and had been cultivating her share in terms of the settlement arrived and the mutation was carried out for her share. It was thus too late in the day to turn around and challenge the settlement and mutations.

Consequently, I do not find any merit in this appeal which stands dismissed.

Pending application, if any, shall also stand dismissed accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

January 16, 2023
sonia gugnani

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No