

In the High Court of Punjab and Haryana, at Chandigarh**Regular Second Appeal No. 2822 of 2018 (O&M)****Date of Decision: 03.10.2023**

Jassa Singh

... Appellant(s)

Versus

Ram Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rahul Arora, Advocate
for the appellant(s).

Anil Kshetarpal, J.**CM-7289-C-2018**

1. For the reasons stated in the application, the same is allowed and delay of 9 days in filing the appeal is condoned.

RSA-2822-2018

2. The Regular Second Appeal in the States of Punjab, Haryana and Union Territory, Chandigarh is governed by Section 41 of the Punjab Courts Act, 1918 and not by Section 100 of the Code of Civil Procedure, 1908, as held by a five Judge Bench of the Supreme Court in *Pankajakshi (Dead) through LRs v. Chandrika and Others (2016) 6 SCC 157*.

3. The correctness of the concurrent findings of facts, arrived at by both the Courts below, is assailed in this second appeal filed by the plaintiff.

4. The plaintiff's suit for the grant of decree of declaration that the sale deed executed by the defendant No.1 in favour of the defendant No. 12 and 13 on 27.05.1985, with respect to the land measuring 4 kanals and 12

marlas is illegal, null and void because the suit property is a joint hindu family's ancestral and coparcenary property, has been dismissed by both the courts below. The suit was filed on 30.05.2011. It has come on the record that the plaintiff has failed to prove that the property was a joint hindu family ancestral or coparcenary property. From the perusal of the jamabandi for the year 1960-61 and 1961-62, it is evident that late Sh.Sattu Singh son of late Sh.Diwan Singh son of late Sh.Rulia Singh was the owner of the property. The plaintiff is son of Sh. Ram Singh who is alive. It has come on the record that after the death of Sh.Sattu Singh, the property was mutated in favour of Smt. Veera Bai (widow), Sh. Ram Singh, Sh.Hardit Singh, Sh.Gurmakh Singh, Sh. Lal Singh, Sh. Kartar Singh (sons) and Ratto Bai, Bakhta Bai alias Pukhta Bai, daughters of late Sh. Sattu Singh. Moreover, the 1/18th share was mutated in favour of the wife and daughter of the predeceased son Sh.Hakam Singh.

5. Keeping in view the aforesaid facts, no ground is made out to interfere with the concurrent findings of facts arrived at by both the Courts below. Hence, the present appeal is dismissed.

6. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

October 03, 2023

"DK"

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No